



To enrich lives through effective and caring service

November 18, 2008



Santos H. Kreimann
Acting Director

Kerry Silverstrom
Chief Deputy

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**APPROVAL OF CONTRACT FOR TREE MAINTENANCE SERVICES IN
MARINA DEL REY
(SUPERVISORIAL DISTRICT 4)
(3 VOTES)**

SUBJECT

This action is to award a contract for tree maintenance services on public grounds in Marina del Rey.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Find that the proposed action is categorically exempt from the provisions of the California Environmental Quality Act pursuant to Classes 1(j) and 4(c) of the County's Environmental Document Reporting Procedures and Guidelines.
2. Find that tree maintenance services can be performed more economically by TruGreen Landcare, LLC than County employees.
3. Approve award of and instruct the Chair to sign a three-year contract with two one-year extension options with TruGreen Landcare, LLC for tree maintenance services on the public grounds in Marina del Rey, to commence on the day of your Board's approval, at a cost not to exceed \$131,800 per year.
4. Authorize the Acting Director of the Department of Beaches and Harbors to exercise the two contract renewal options for this contract, if, in his opinion, TruGreen Landcare, LLC has successfully performed the services during the previous contract period and the services are still required.

5. Authorize the Acting Director of the Department of Beaches and Harbors to increase the contract amount for this contract by up to 20% in any year of the contract or any option year, for any additional or unforeseen services within the scope of this contract.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of the contract (Attachment I) will enable the Department of Beaches and Harbors (Department) to continue to maintain the trees on the public grounds in Marina del Rey with the work being performed by a qualified contractor. Through quality maintenance, the Department ensures visitors' enjoyment of parks, bike paths and other public areas, while also effectively setting a standard for the upkeep of the trees on privately maintained and operated leaseholds in Marina del Rey.

Tree maintenance services have been contracted out since 1984. TruGreen Landcare, LLC (TruGreen) is the current contractor for these services. Approval of this contract will enable the Department to continue using the services of a private contractor.

Implementation of Strategic Plan Goals

Tree maintenance services provided by TruGreen will promote and further the Board approved Strategic Plan Goals of Service Excellence (Goal 1), enabling the Department to provide the public with well maintained grounds in Marina del Rey, and Fiscal Responsibility (Goal 4), lowering the County's cost by contracting for these services at a reduced cost rather than utilizing County employees.

FISCAL IMPACT/FINANCING

Should the need arise due to public events or other unscheduled additional tasks, the contract provides for additional tree maintenance services at the rate of \$41.00 per employee hour. In the event such additional costs are incurred, the Department's Acting Director may, by written notice to the contractor, increase the maximum annual compensation by up to 20% (\$26,360) in any contract year or optional extension period. This contract does not include any cost of living adjustments during the term of the contract.

Operating Budget Impact

The actual annual cost of the proposed contract is \$131,800. There is sufficient appropriation in the Marina budget unit of the Department's Fiscal Year 2008-09 Adopted Budget to fund the cost of the recommended contract and any unscheduled tasks during the original contract period and any option year, including covering the cost of the Board-approved living wage rates as increased.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The Department is requesting award of the contract to TruGreen, which was determined to be the most responsive and responsible proposer. The contract term for the contract is three years with two one-year extension options that may be exercised at the discretion of the Department's Acting Director. The contract services will commence on the date of approval by your Board.

No layoffs or reductions in County workforce or other adverse impacts on employee relations will result from the contract award, as the work is presently contracted out.

The Department has evaluated and determined that the contractor fully complies with the requirements of the Living Wage Program (County Code Chapter 2.201) and has agreed to pay all employees providing these County services a living wage.

In addition, the contract award fully complies with the mandatory Proposition A requirements contained in County Code Section 2.121.380 for the following reasons:

- The Department, using a methodology approved by the Auditor Controller, has calculated the cost-effectiveness of contracting for these services and has determined that these services continue to be more economically performed by an independent contractor than by County employees. The annual savings from using TruGreen's services rather than County staff is estimated to be approximately \$90,345, as detailed in Attachment II.
- Award of the contract will not impair the County's ability to respond to emergencies.
- No confidential information is involved in the performance of the contract. Award of the contract will not result in the unauthorized disclosure of confidential information.
- Alternative services are available in the event of a default by the contractor;

therefore, services will not be interrupted.

- Award of the contract will not infringe upon the proper role of the County in its relationship to its citizens.

The contract contains, and the contractor has agreed to, the County's standard provisions, including consideration of hiring GAIN/GROW participants, the Jury Service Program and Safely Surrendered Baby Law. TruGreen is in compliance with all Board, Chief Executive Office (CEO) and County Counsel requirements.

The contract has been approved as to form by County Counsel.

ENVIRONMENTAL DOCUMENTATION

Your approval of the contract is categorically exempt under the provisions of the California Environmental Quality Act (CEQA) pursuant to classes 1(j) and 4(c) of the County's Environmental Document Reporting Procedures and Guidelines as the contract is for the purpose of maintaining the existing trees on the public grounds in Marina del Rey.

CONTRACTING PROCESS

On June 17, 2008, the Department issued a Request for Proposals (RFP) seeking qualified vendors to provide tree maintenance services. The RFP was advertised in the Eastside Sun, the Lynwood Journal, the Daily Breeze, the Culver City News, the Los Angeles Daily News, the Compton Bulletin, the Santa Monica Daily Press, the L.A. Watts Times and the Los Angeles Times. The opportunity was also advertised on the "Doing Business with the County" Internet site, as well as the Department's own Internet site. The RFP was available for download on the County of Los Angeles Internet site. Thirty-seven RFPs were mailed to firms from our vendor listing and pursuant to requests received through our advertising efforts.

Seven tree service firms submitted proposals that met the RFP's minimum requirements and were evaluated. A three-person evaluation committee, comprised of two staff members from the Department's Facilities and Property Maintenance Division and one staff member from the Department of Parks and Recreation, evaluated the proposals based on a weighted evaluation of: (1) price, 40%; (2) approach to contract requirements, 25%; (3) experience and organizational resources, 25%; and (4) references, 10%. During this process, one proposer was disqualified for failing to meet several areas of the evaluation criteria. The evaluation committee determined that of the six remaining

proposers evaluated, TruGreen is the most responsive and responsible proposer, ranking highest of all the proposers evaluated.

While another proposer, Far East Landscape, presented a cost proposal that was lower by \$19,283 than TruGreen's cost proposal, it was ranked lower in the Experience/Organizational Resources and Approach to Contract Requirements categories. In contrast, TruGreen has the ability, experience and resources necessary to provide quality tree services. With over 20 years' experience providing tree maintenance services, including three and one-half years as the Department's current contractor, TruGreen has the organizational depth and knowledge to continue to provide these services as outlined in its proposal.

Pursuant to the Living Wage Ordinance Implementation Plan, TruGreen's information was forwarded to the State Division of Labor Standards Enforcement, which found that TruGreen has no reported labor or payroll violations.

The local Small Business Enterprise Program's (SBE) provisions were included in the RFP issued. Proposers who claimed SBE certification were verified by the Department and awarded the five percent preference in the proposal price in accordance with Los Angeles County Code Chapter 2.204.

Attachment III details the minority and gender composition of the qualifying firms. On final analysis and consideration of this contract award, TruGreen was selected without regard to gender, race, creed or color.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The award of this contract will not result in the displacement of any County employees, as these services are currently being contracted out.

There will be no impact on other County services or projects.

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CONCLUSION

Instruct the Executive Officer to send four conformed copies of the contract to the Department of Beaches and Harbors, along with three approved copies of this letter.

Respectfully submitted,

Handwritten signature of Kerry Silverstrom in cursive script.

Santos H. Kreimann, Acting Director

SHK:nt

Attachments (3)

c: Chief Executive Officer
County Counsel
Office of Affirmative Action Compliance

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
CONTRACT FOR TREE SERVICE**

PART ONE – GENERAL CONDITIONS

1.1 INTRODUCTION

1.1.1 Parties. This Contract is entered into by and between the County of Los Angeles (the “County”) and TruGreen Landcare, LLC (the “Contractor”).

1.1.2 Recitals. The Contract is intended to integrate within one document the terms for the tree service work to be performed for the County by the Contractor. The Contractor represents to the County that the express representations, certifications, assurances and warranties given in this Contract, including but not limited to those in Sections 3.2, 3.3, 3.4, 3.6, 3.21 and 3.31 and in Form P-1 (Offer to Perform and Price Proposal), and Form P-2 (Proposer’s Work Plan), are true and correct. The Contractor further represents that the express representations, certifications, assurances and warranties given by the Contractor in response to the Request for Proposals are true and correct, including but not limited to Forms P-3, P-4, P-5, P-6, P-7, P-8, P-9, P-10 and P-11 submitted with the Contractor’s Proposal.

1.1.3 Effective Date. The effective date of this Contract shall be the date of Board approval.

1.1.4 Contract Provisions. The Contract is comprised of this Part 1 (General Conditions), Part 2 (Statement of Work), Part 3 (Standard Contract Terms and Conditions), Exhibit 1 (Map of Facilities), Exhibit 2 (Schedule of Tree Services Duties), Exhibit 3 (Performance Requirements Summary Chart), Exhibit 4 (Contract Discrepancy Report), Exhibit 5 (Emergency Contact List), Exhibit 6 (Living Wage Statement of Compliance), Exhibit 7 (Living Wage Monthly Certification for Applicable Health Benefit Payments), Exhibit 8 (Notice to Employees), Exhibit 9 (Notice to All Employees poster), Exhibit 10 (Living Wage Program), Exhibit 11 (Safely Surrendered Baby Law), Form P-1 (Proposal: Offer to Perform and Price Proposal), and Form P-2 (Work Plan), all of which are attached to this contract and

incorporated by reference. It is the intention of the parties that when reference is made in this Contract to the language of the request for Proposals (RFP), the Exhibits or the Proposal, such language shall be deemed incorporated in the Contract as if fully set forth. To the extent there is any inconsistency between the language in Forms P-1 and P-2 and any other part of the Contract, the language of such other part of the Contract shall prevail.

1.1.5 Work to be Performed. Contractor shall perform the work set forth in Part 2, Exhibit 2 and Form P-2.

1.1.6 Rescission. The County may rescind the Contract for the Contractor’s misrepresentation of the matters mentioned in Section 1.1.2. In the case of a misrepresentation of the facts set forth in Section 3.6, a penalty may be assessed in the amount of the fee paid by the Contractor to a third person for the award of the Contract.

1.1.7 Supplemental Documents. Prior to commencing services under the Contract, the selected Proposer(s) shall provide the Contract Administrator with satisfactory written proof of insurance complying with Section 3.9.

1.2 INTERPRETATION OF RFP

1.2.1 Headings. The headings contained in the Contract are for convenience and reference only. They are not intended to define or limit the scope of any provision of the Contract.

1.2.2 Definitions. The following words shall be construed to have the following meanings, unless otherwise apparent from the context in which they are used.

Board, Board of Supervisors. The Board of Supervisors of Los Angeles County.

Contract. An agreement for performance of the work between the selected Proposer and the County, approved by the Board of Supervisors,

which incorporates the items enumerated in Section 1.1.4.

Contract Administrator (CA). The Chief of the Facilities and Property Maintenance Division of the Department or a designated representative.

Contractor. The Proposer whose Proposal is accepted by the Board of Supervisors for performance of the Contract work.

Contractor's Representative. The person designated by the Contractor to represent the Contractor in matters related to the performance of the Contract.

Contract Year. The twelve-month period commencing on the effective date of the Contract by the Board of Supervisors and each succeeding twelve-month period over the remaining term of the Contract, including the optional years.

County. The County of Los Angeles.

County Counsel. The Los Angeles County Counsel.

Department. The Los Angeles County Department of Beaches and Harbors.

Deputy Director. The Deputy Director of the Department.

Director. The Director of the Department.

Living Wage Program. Los Angeles County Code Chapter 2.201.

Offer to Perform and Price Proposal. Form P-1 of the Contract.

Performance Standard. The essential terms and conditions for the performance of the Contract work as defined in the Contract.

Proposer. Any person or entity authorized to conduct business in California who submits a Proposal.

Request for Proposals (RFP). The solicitation to this Contract issued June 17, 2008.

Subcontractor. A person, partnership, company, corporation, or other organization furnishing supplies or services of any nature, equipment, or

materials to the Contractor, at any tier, under written agreement. Subcontractors engaged to perform any part of the Contract work must be approved by the Director in accordance with Section 3.23.

1.3 CONTRACT TERM

1.3.1 Initial Term. The initial Contract term shall commence on the date of approval of the Contract by the Board of Supervisors and end three years from that date.

1.3.2 Two One-Year Extension Options. The Director may offer to extend the Contract term for up to two consecutive optional Contract Years. The Director may exercise the first option by notifying the Contractor in writing before the Contract expiration date. The Director may exercise the second option by notifying the Contractor in writing before the expiration of the first optional Contract year. The Contractor may decline to accept any such offer to an extension. Should the Contractor fail to accept or decline the Director's offer in writing before the expiration of the Contract term or optional Contract year, or 30 days, whichever is earlier, the offer shall be deemed revoked.

1.3.3 Duty of Cooperation Upon Expiration or Termination of Contract. Upon expiration of the Contract term or any optional extension period or termination of the Contract for any reason, the Contractor shall cooperate with the County and the successor contractor in transferring records and County property and allowing the successor contractor access to all information and County facilities necessary to ensure uninterrupted landscape services.

1.3.4 Survival of Obligations. Notwithstanding the stated term of the Contract, some obligations assumed in the Contract shall survive its termination, such as, but not limited to, the Contractor's obligation to retain and allow inspection by the County of its books, records and accounts relating to its performance of the Contract work.

1.4 COMPENSATION

1.4.1 Maximum Annual Compensation for Specified Work. The annual price stated on Form P-1 shall be the maximum compensation payable by the County for the required work in each Contract year of the Contract term. No

additional compensation shall be included on account of pricing changes, market changes, cost of living changes, increased labor costs or inflation.

1.4.2 Increase of Contract Sum by Director. Notwithstanding Section 1.4.1, the Director may, by written notice to the Contractor, increase the maximum annual compensation by up to 20 percent in any year of the Contract or any extension period, subject to the availability of funds in the Department's budget. Such increases shall not be cumulative.

1.4.3 Contract Payment. The Contractor shall be paid at the annual rate quoted on Form P-1 in equal monthly installments, subject to Section 3.1.

1.4.4 Additional Work. The Contractor will be compensated for additional work authorized in writing by the Director at the hourly rates quoted on Form P-1 of the proposal. Such additional work shall be subject to Sections 3.1 and 1.4.1. Special events, emergencies and special or unscheduled service shall be considered additional work subject to this Section. However, no payment for additional work shall be made where the Contractor has adjusted regular employee schedules to cover additional work or where additional work results from the Contractor's inadequate performance of scheduled duties.

1.4.5 Gratuitous Work. Work performed outside the scope of this Contract without amendment thereto shall be deemed to be a gratuitous effort on the part of the Contractor, and Contractor shall have no claim against County for such work.

1.4.6 Increase or Decrease in Service Area. Should the facilities to be maintained (Section 2.4.1) be modified in accordance with Section 2.4.2, The Contractor's compensation shall be modified as agreed by the parties in proportion to the reduction or increase in the Contractor's wage and benefit costs.

1.4.7 No Payment for Services Provided Following Expiration/Termination of Contract Contractor shall have no claim against County for payment of any money or reimbursement, of any kind whatsoever, for any service provided by the Contractor after the expiration or other termination of this Contract. Should Contractor

receive any such payment it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Contract.

1.4.8 Contractor's Invoice Procedures.

1.4.8.1 The Contractor shall submit two copies of an invoice to the Department on or before the fifteenth day of each month for work performed during the preceding calendar month. Invoices shall identify the Contract number and other information necessary to calculate the payment for the work.

1.4.8.2 The monthly invoice shall show the amount due and payable, the dates and locations where work was performed and the names of employees who performed the work. If unscheduled additional work was performed during the month, the Contractor shall prepare and submit a separate invoice showing the foregoing information as well as the number of hours worked by each employee and the hourly rates of compensation.

1.4.8.3 Upon the Department's receipt and the CA's review and approval of the invoice, the County shall pay the net amount currently payable shown on the invoice less any other setoff or deduction authorized by Part 2 of the Contract. Such setoffs and deductions include, but are not limited to, liquidated damages pursuant to Part 2 and the cost of replacement services.

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
CONTRACT FOR TREE SERVICE**

PART TWO – STATEMENT OF WORK

2.1 GENERAL WORK REQUIREMENTS

2.1.1 Contractor's Work Plan. Subject to all other terms and conditions of the Contract, Contractor shall perform the work and maintain quality control in accordance with the Work Plan and Pricing Method (Form P-1) and other representations submitted with Contractor's Proposal.

2.1.2 Contractor Expenses. Except as provided in Section 2.6, the Contractor shall, at its own expense provide all labor, equipment, maintenance, material, supplies, licenses, registration, data systems, transportation, meals, lodging, services and expenses required for the work.

2.1.3 Contractor's Office. The Contractor shall maintain an address within the County at which the Contractor's Representative may be contacted personally and by mail. The Contractor shall list its firm name in the telephone directories of Los Angeles, Marina del Rey and Redondo Beach. The office shall be staffed during normal business hours by at least one employee who can respond to inquiries and complaints which may be received about the Contractor's performance of the Contract Work. When the office is closed, the Contractor shall provide an answering service, voicemail or telephone message machine to receive calls.

2.1.4 Communication with Department. The Contractor shall maintain communication systems that will enable the Department to contact the Contractor at all times. Calls from County staff shall be returned within one-half hour. In addition, the Contractor shall provide a 24-hour telephone number for immediate response to emergencies.

2.1.5 Acceptance of Facilities. The Contractor acknowledges personal inspection of the public grounds, landscaping and storage facilities; accepts their present physical condition; and agrees to make no demands upon the County for their improvement or alteration.

2.1.6 No Vehicle Access on Bike Paths.

Motor vehicles used in the performance of the Contract work shall not be driven on bike paths.

2.2 COUNTY CONTRACT ADMINISTRATOR (CA)

2.2.1 CA's Authority. The Department shall appoint a Contract Administrator (CA) who shall have the authority to act for the County in the administration of the Contract except where action of the Director or another official is expressly required by the Contract. The CA is not authorized to make any changes in the terms and conditions of the Contract or to obligate the County in any manner.

2.2.2 CA's Responsibility for Directing and Approving Contractor's Work. The CA will be responsible for ensuring that the objectives of the Contract are met and shall direct the Contractor as to the County's policy, information and procedural requirements. The Contractor's work shall be subject to the CA's acceptance and approval, which shall not be unreasonably withheld.

2.3 CONTRACTOR'S STAFF

2.3.1 General Personal Requirements.

2.3.1.1 The Contractor shall ascertain that persons performing Contract services are of sound physical and emotional condition necessary to perform required duties.

2.3.1.2 The Contractor's employees are subject to reasonable dress codes when on County property; shall not bring visitors onto the work site; shall not bring in any form of weapon or contraband; shall not bring in any alcohol or drugs or be under the influence of alcohol or drugs; are subject to authorized search by the Contractor, CA and law enforcement; shall conduct themselves in a reasonable manner at all times; shall not cause any disturbance; and otherwise are subject to all rules and regulations of the County.

2.3.1.3 All personnel assigned by the Contractor to perform services at County facilities shall at all times be employees of the Contractor and the Contractor shall have the sole right to hire, suspend, discipline or discharge employees. However, at the request of the Director, the Contractor shall immediately exclude any member of the Contractor's staff from assignment to the Contract work. The County reserves the right to conduct a background investigation of the Contractor's staff and to bar any of the Contractor's staff from County facilities.

2.3.1.4 The Contractor shall obtain approval of the CA before replacing the Contractor's Representative (CR) or the supervisor. Such approval shall not be unreasonably withheld.

2.3.1.5 The Contractor shall provide the County with a current list of employees, including but not limited to management, and shall keep this list updated during the Contract period.

2.3.1.6 The Contractor's employees shall enter and leave County facilities only through access specified by the CA.

2.3.1.7 The Contractor's employees who are assigned to operate any motor vehicle shall have a valid operator's license for the type of motor vehicle to be operated.

2.3.2 Contractor's Representative (CR).

The Contractor shall designate a full-time employee as Contractor's Representative (CR) who shall be responsible for Contractor's day-to-day activities related to the Contract and who shall have full authority to act for the Contractor in all matters related to the performance of the Contract. The CR shall be available to the County Contract Administrator (CA) on reasonable telephone notice each day and at other times as required by the work. The CR shall make inspections, answer questions, resolve problems, respond to emergencies, keep logs and approve reports. The CR shall cooperate with the CA in scheduling and attending periodic performance evaluation meetings. The Contractor may designate himself or herself as the Contractor's Representative.

2.3.3 Supervisor. The Contractor shall provide a supervisor with no less than two years' experience in projects of the size called for by

the Contract. The CR may act as the Supervisor. The supervisor shall be authorized to act for Contractor in every detail and must understand, speak and write English.

2.3.4 Crew. Contractor shall provide the services of sufficient staff to perform the Contract in accordance with this Part 2 and each term and condition of the Contract.

2.4 SERVICES TO BE PROVIDED.

2.4.1 Areas to be Maintained. The Contract work shall be performed on the areas that are owned and controlled by the County within the following parcels and roads in the Marina del Rey Small Craft Harbor: parcels 150, 51U, 55, 40T, 44, 45L, 47, 77UR, 49M, 49R, 49S, Z, GG, XT, EE, W, and 62, all of which are east of the Main Channel, as shown on Exhibit 1; parcels 145 (six rusty fig trees), OT, P, Q, RR, and SS, all of which are north of the Main Channel, as shown on Exhibit 1; parcels NR, 91S, IR, LLS, JS, HS, GR, FF, K-6, F, DS, 3S, BR, and A, all of which are west of the Main Channel, as shown on Exhibit 1; and Fiji Way, Mindanao Way, Bali Way, Admiralty Way, Palawan Way, Panay Way, Marquesas Way, Tahiti Way, and Via Marina, all of which are shown on Exhibit 1.

2.4.2 Scheduled Services.

2.4.2.1 The Contractor's shall include, but are not limited to, the tasks listed in Exhibit 2, ("Schedule of Tree Service Duties"). The services shall be performed at the times shown in Exhibit 2.

2.4.2.2 The Contractor will be required to comply with the Department's Policy No. 23, Tree Pruning in Marina del Rey and on County Beaches in Accordance with Native Bird Breeding Cycles (Exhibit 12), that will require the Contractor to provide a qualified biologist, as-needed to perform the services listed in Exhibit 12. The Contractor, acting for the Department, shall schedule walk-throughs, both before trees are pruned and on a regular basis thereafter, and maintain written documentation from the biologist that necessary observations have been made, along with either an okay to start or an order to stop work.

2.4.3 County may Add, Delete or Modify Facilities or Modify Scope of Scheduled Services.

2.4.3.1 The County reserves the right to add facilities to, or remove facilities from, the list of facilities identified in Section 2.4.1 in accordance with the County's needs. Such amendments and modifications may be made by the Director.

2.4.3.2 The County may from time to time close or cease operating certain facilities or portions of such facilities or may reduce the number of days on which services are performed. Such events shall not be deemed breaches of this Contract or of any of the covenants of this Contract and shall not relieve the Contractor of its duty as to the remaining facilities and services.

2.4.3.3 The Contractor shall be given reasonable written notice by the CA that a facility is to be added or deleted or that the scope of services is being modified and of the effective date of such changes.

2.4.3.4 In the event of such addition of facilities, deletion of facilities, or other material modification of the area or scope of regularly scheduled services, the Contractor's compensation shall be adjusted in accordance with Section 1.4.6.

2.4.4 Additional Work. Work not required by the Contract may be authorized only by the Director. Special tree service work which is not required by the Contract and which is authorized by the Director shall be paid at the hourly rate provided on Form P-1.

2.4.5 Contractor to Avoid Obstruction and Noise. The Contractor shall use its best efforts to avoid causing any unnecessary obstruction and inconvenience to traffic or noise in the performance of the Contract work.

2.4.6 Restriction on Blowers and Power Equipment. The Contractor shall observe reasonable limits set by the CA on the time and place of operation of leaf blowers and other power equipment.

2.4.7 Other Duties. The Contractor shall perform other duties within the scope of the Contract as required by the Director.

2.5 LOGS AND REPORTS

2.5.1 Contractor to Furnish Employee Driving Records. On the commencement of the Contract term and every six months thereafter over the remaining Contract term, the Contractor shall furnish the CA with a report from the California Department of Motor Vehicles on the Driving Record of each employee who is assigned to operate a motor vehicle in the performance of the Contract work.

2.5.2 Daily Maintenance Log. The Contractor shall maintain daily maintenance logs in a form acceptable to the CA that shall be made available to the CA on request. Such logs shall be prepared by the Contractor's supervisor(s) and shall include:

- The beginning and ending time of each shift;
- The location and nature of all reports made pursuant to Sections 2.5.5 and 2.5.6;
- Violations of the Performance Requirements and corrective actions taken;
- The time and signatures of each employee on arrival and departure; and
- The names and times in and out of all subcontractors.

2.5.3 Contractor to Make Monthly Work Report. The Contractor shall submit with each invoice a work report describing for each day worked all ongoing maintenance tasks, seasonal tasks, additional work and damage repairs performed.

2.5.4 Contractor to Make Monthly Fertilizer, Seed and Chemical Report. The Contractor shall submit with each invoice a Fertilizer, Seed and Chemical Report. The report shall list the fertilizer, seed and chemicals used during the month, reporting and enclosing for the material used:

- Quantity and complete description of all commercial and organic fertilizer(s).
- Quantity and label description of all grass seed.
- Quantity and complete description of all soil amendments.

- Copies of the recommendations and corresponding pesticide use report signed by a licensed California Pest Control Advisor for all chemical disease and pest control work performed.
- Copy of the permit issued by the Agricultural Commissioner which allows the application of chemicals.

2.5.5 Complaint Log. The Contractor shall also maintain a log of all complaints received directly from the public or forwarded to the Contractor by the CA relating to complaints concerning employee appearance, attitude, and work. The log shall contain the date of receipt of complaint, nature of the complaint, time and action taken or reason for inaction. A copy of any written complaint and its resolution shall be submitted to the CA no later than five working days from the Contractor's receipt of the complaint. An updated copy of the complaint log shall be made available to the CA on request.

2.5.6 Reporting Injury, Theft, Damage, or Vandalism. Immediately upon discovery by the Contractor's staff, the CR shall report to the CA any injury, theft, damage or vandalism to the facilities. The report shall be in writing and on a form that is acceptable to the CA.

2.5.7 Reporting Emergency Repairs. The CR shall report immediately to the CA any condition of the facilities requiring emergency repairs, including, but not limited to, broken water pipes or exposed electrical wires. After-hours notification shall be made to the Marina Maintenance Supervisor, tel. (310) 345-4205 or pager (800) 225-0256, ext. 668673.

2.5.8 Living Wage Program Compliance. Contractor shall provide the reports required by Section 3.32 as directed by the CA.

2.6 FACILITIES AND EQUIPMENT FURNISHED BY COUNTY.

2.6.1 Storage. County is not required to furnish storage for the Contractor's equipment or supplies.

2.6.2 Keys and Gate Cards.

2.6.2.1 The County will provide the Contractor with all keys and gate cards that are required to gain access to the facilities requiring tree

pruning. The CR shall report any lost or stolen key or gate cards to the CA within 24 hours of discovery of its loss. The Contractor shall reimburse the County for the cost of either re-keying or duplicating lost keys or cards as determined by the Director. All keys and gate cards shall be returned to the CA upon Contract termination.

2.6.2.2 The Contractor shall not duplicate any key or gate card without the CA's prior written consent. Duplication of any key or gate card without this consent is a misdemeanor (Section 469 of the California Penal Code), in addition to being a breach of the Contract.

2.6.2.3 The Contractor shall not give keys to any County facility to a Subcontractor. Contractor shall assign someone to open and close entrance doors and stay with Subcontractors until the specific job is completed.

2.7 SUPPLIES AND EQUIPMENT FURNISHED BY CONTRACTOR.

2.7.1 Contractor to Furnish Supplies and Equipment. Except for the items furnished by the County pursuant to Section 2.6, the Contractor shall provide all supplies and equipment necessary to perform the Contract work.

2.7.2 Uniforms. The Contractor shall furnish all employees assigned to perform the Contract work uniforms in a style and color acceptable to the Director. The uniforms shall be worn by all of the Contractor's employees while performing the Contract work, and they shall be changed as necessary so that the employee always has a clean uniform.

2.7.3 Photo I.D. The Contractor shall furnish and require every on-duty employee to wear a visible photo identification card identifying the employee by name, physical description and company. The card shall be approved by the CA.

2.7.4 Vehicles. The Contractor shall provide all motor vehicles used to perform the Contract work. All vehicles used to perform the Contract work shall be registered to the Contractor. All such vehicles shall be maintained in good and safe condition and shall be subject to the CA's approval, which shall not be unreasonably

withheld. The Contractor shall identify each vehicle used in the performance of the Contract work with signs or logos which include the company name and telephone number. The size, color, and format of such identifying signs shall be subject to the CA's prior approval, which shall not be unreasonably withheld. The Contractor shall not allow unlicensed employees to drive motor vehicles.

2.7.5 Required Vehicles. The Contractor shall provide at the minimum one enclosed truck to haul wood chips and one truck equipped with an aerial tower to perform the Contract Work.

2.7.6 Aerial Equipment. Aerial equipment shall comply with California Division of Industrial Safety Orders, CAL-OSHA and Federal ANSI-a.982.982-1979 standard for vehicles mounted with elevated and rotating aerial devices, and shall include dielectric certification for 100KV test. Aerial tower certificates shall be available on each truck equipped with aerial equipment at all times for review.

2.7.7 Other Equipment. The Contractor shall maintain equipment in a safe, clean condition and free from infectious materials. The equipment shall meet all requirements of applicable ordinances and laws. The equipment shall include at a minimum each of the following items:

- Bush chippers that comply with CAL-OSHA requirements;
- Stump Grinder;
- Pole saw pruners;
- Chain saws;
- Limb loppers; and

Traffic control signs and cones.

2.8 QUALITY ASSURANCE.

2.8.1 Purpose of Standards. The Contractor will observe, at a minimum, the standards set forth in this Section 2.8, and acknowledges that the adequacy of its compliance with the Contract shall be measured by these standards as well as all other terms and conditions of the Contract.

2.8.2 Performance Evaluation. The County or its agent will evaluate Contractor's performance under this agreement on not less than an annual basis. Such evaluation will include assessing Contractor's compliance with all Contract terms and performance standards. Contractor deficiencies which the County determines are severe and continuing and that may place performance of the agreement in jeopardy if not corrected will be reported to the Board of Supervisors. The report will include improvement/corrective action measures taken by the County and Contractor. If improvement does not occur consistent with the corrective action measures, County may terminate this agreement or impose other penalties as specified in this agreement.

2.8.3 Contractor's Quality Control Plan. The Contractor shall comply with the quality control plan set forth in Form P-3. To the extent that provisions of Contractor's quality control plan are inconsistent with any other part of the Contract, they shall be ineffective. The Contractor shall not change the quality control plan without written approval of the Director.

2.8.4 County's Quality Assurance Plan.

2.8.4.1 The methods and standards by which the Contractor's performance will be evaluated include, but are not limited to, those described in the Performance Requirements Summary Chart Exhibit 3).

2.8.4.2 Contractor's compliance with the Performance Requirements identified in Exhibit 3 shall be evaluated annually as provided in Section 2.8.2.

2.8.4.3 The Contractor agrees to and accepts the provisions of the Performance Requirements Summary Chart, including, but not limited to, the sums set forth as liquidated damages for unacceptable performance.

2.8.4.4 Failure to perform the Contract in accordance with the Performance Requirements is considered unacceptable. The CA may issue a Deficiency Report (DR) to the Contractor in any instance of failure to comply with the Performance requirements or other unacceptable performance. In the case of continuing deficiencies, the CA may issue a separate DR each day the deficiency continues.

2.8.4.5 The Contractor shall immediately correct unacceptable performance and shall explain in writing within seven days of the date of the DR what causes the unacceptable performance, how and when performance will be returned to acceptable levels, and how the unacceptable performance will be prevented in the future. After considering the incident, the Contractor's statement and any history of unacceptable performance, the Director may excuse the incident, assess and collect liquidated damages in the manner described in Section 2.8.5 or proceed with Contract termination as provided in Section 3.16.

2.8.5 Liquidated Damages.

2.8.5.1 In any case of the Contractor's failure to meet the performance requirements stated in Exhibit 3, the County may, in lieu of other remedies provided by law or the Contract, assess liquidated damages in the sums specified in Exhibit 3 and deduct them from the next regularly scheduled payment to the Contractor. However, neither the provision of a sum of liquidated damages for nonperformance or inadequate performance nor the County's acceptance of liquidated damages shall be construed to waive the County's right to reimbursement for damages to its property or indemnity against third-party claims.

2.8.5.2 The amounts of liquidated damages have been set in recognition of the following circumstances existing at the time of the formation of the Contract:

- All the time limits and acts required to be done by both parties are of the essence of the Contract;
- The parties are both experienced in the performance of the Contract work;
- The Contract contains a reasonable statement of the work to be performed in order that the expectation of the parties to the Contract are realized. The expectation of the County is a savings in the cost of work previously performed by employees of the County, while the expectation of the Contractor is a realization of a profit through the ability to perform the Contract work in accordance with the terms and conditions of the Contract at the Proposal prices;

- The parties are not under any compulsion to Contract;
- The Contractor's acceptance of the assessment of liquidated damages against it for unsatisfactory and late performance is by agreement and willingness to be bound as part of the consideration being offered to the County for the award of the Contract;
- Except where the County has incurred the cost of obtaining substitute performance or terminating the Contract, it would be difficult for the County to prove whether a failure to perform the Contract work for which a liquidated sum has been provided in Exhibit 3 will have resulted in a loss of its savings in the cost of the work to be performed; and
- The liquidated sums specified in Exhibit 3 represent a fair approximation of the damages incurred by the County resulting from the Contractor's failure to meet the performance standard as to each item for which an amount of liquidated damages is specified.

2.9 DAMAGE TO COUNTY PROPERTY.

2.9.1 Contractor Caused Damage. County property, facilities, utilities, and trees damaged by the Contractor's employees shall be repaired, restored or replaced by the Contractor at the Contractor's expense with like workmanship and materials. Such repair or replacement shall be subject to approval by the CA.

2.9.2 Damage by Weather and Third Parties. Damage to the trees that is caused by either an abnormal atmospheric event, such as by way of example and not limitation, a strong wind, heavy rain, extreme temperature, or an act of a third party shall be repaired by the Contractor to the satisfaction of the CA and without cost to the County, except in those instances where the cost of repair exceeds one thousand dollars.

2.9.3 Repairs Exceeding \$1,000. In those instances where the cost of restoration or replacement of trees exceeds one thousand dollars and the damage was not caused by the Contractor's employees, the Contractor shall have the right but not the obligation to submit to the Director a written cost estimate for repair of the damage. If the estimate is approved by the

Director, performance of the restoration or replacement by the Contractor shall be regarded as additional work and paid by the County in accordance with Section 1.4.3, less the amount of one thousand dollars.

2.10 HOURS OF WORK. Except as otherwise provided with respect to the application of chemicals, the Contract work shall be performed Monday through Friday, excluding Holidays, between the hours of 6:00 a.m. and 3:00 p.m. Any modification of hours must have the prior approval of the CA.

2.11 REQUIRED PEST CONTROL LICENSES AND REGISTRATION.

2.11.1 State Licenses. The Contractor or its employees shall have the following valid licenses issued by the State of California, and shall display them or provide copies as the CA requests:

- C-27 Landscape Contractor License or C-61 (D-49) Tree Service License;
- Agricultural Pest Control Advisor License with categories D and E certification;
- Qualified Applicator's License with category B or higher certification.

2.11.2 Registration. The Contractor shall be registered with the Los Angeles County Agricultural Commission.

2.11.3 Business License. Contractor shall have a valid California Pest Control Business License.

2.12 USE OF CHEMICALS.

2.12.1 Employees Using Chemicals to be Licensed. All Contract work involving the use of chemicals shall be performed in compliance with all federal, state and local laws and will be performed by a Qualified Applicator under the direction of a licensed Pest Control Advisor (PCA).

2.12.2 CA to Approve Use of Chemicals. A listing of proposed chemicals, including commercial name, application rates, type of usage, and material safety data sheet shall be submitted to the CA two weeks prior to application. No work shall begin until written

approval of use is obtained from the CA. Use or application of chemicals includes:

- Fertilization.
- Turf renovation or reseeding.
- Use of pesticides and herbicides.
- Micro-nutrients and soil amendments.
- Spraying of trees, shrubs or turf.
- Other items as determined by the Director.

2.12.3 Contractor to Record Chemical Use. Records of all operations stating dates, times, methods of application, chemical foundations, applicator's name, and weather conditions shall be made and retained in an active file for a minimum of three years. Contractor shall provide a chemical use report (site specific) with monthly billing as provided in Section 2.5.4. A copy of the PCA's recommendation for each application (site specific) shall be provided to the CA and applicator prior to each application. This requirement shall be in addition to the copy of the usage summary that is provided to the Agricultural Commissioner.

2.12.4 Contractor to Furnish Permit for Chemicals. Prior to application, all chemicals used must be approved and registered with the County Agricultural Commissioner and a permit obtained for their application. The CA shall be given a copy of each permit obtained.

2.12.5 Contractor to Observe Chemical Regulations. The Contractor shall adhere to all regulations and safety precautions listed in the "Pesticide Information and Safety Manual" published by the University of California.

2.12.6 Time to Use Chemicals. Chemicals shall be applied only between the hours of 5:00 a.m. and 8:00 a.m. on weekdays only, and only on days when winds will not carry the material being applied beyond the boundaries of the area being treated.

2.12.7 No Chemicals in County Storage. The Contractor shall not store chemicals in the storage areas that are furnished by the County.

2.12.8 Material Safety Data Sheets (MSDS). Contractor shall maintain on-site MSDS Reports

and shall provide the CA with copies before any chemical application is performed.

2.13 DEPARTMENTAL MARKETING AND ADVERTISING PROGRAM.

2.13.1 Contractor to Cooperate in Advertising Programs. The Contractor agrees to cooperate in any advertising program approved by the Director requiring the display of a logo, slogan, or advertisement on the equipment, uniforms and structures within the public grounds, landscaping and park restrooms.

2.13.2 No Advertising by Contractor Without Approval. The Contractor shall not place any other advertising on the uniforms, equipment or structures without the prior written approval of the Director.

2.13.3 County May Advertise on Contractor's Uniforms and Equipment. The County reserves the right at its own cost to advertise the goods and services of its Departmental sponsors on the equipment and uniforms.

2.14 OPERATIONS IN TRAFFIC

2.14.1 Traffic to be Unimpeded. Unless otherwise authorized by the CA, traffic shall be permitted to pass through the work site without interruption or delay and the Contractor shall conduct its operations within the roadway parking lanes and parkway areas.

2.14.2 Traffic Shifting to be Safe. Shifting of traffic from one lane to another shall be performed in such a manner that traffic may move smoothly without any sudden changes from one lane to another according the requirements of the current MANUAL OF TRAFFIC CONTROLS – For Construction and Maintenance Work Zones, issued by the State of California, Department of Transportation and Building News, Inc., 3055 Overland Avenue, Los Angeles, California 90034, Phone (213) 202-7775.

2.14.3 Multi-Lane Procedures. On multi-lane streets, all procedures for lane closures, as well as all barricades, signs, lights, and other safety devices required, shall conform to the requirements of the current MANUAL OF TRAFFIC CONTROLS – For Construction and Maintenance Work Zones, issued by the State of

California, Department of Transportation and Building News, Inc., 3055 Overland Avenue, Los Angeles, California 90034, Phone (213) 202-7775.

2.14.4 Other Street Procedures. On all other streets, all procedures for lane closure, as well as barricades, signs, lights, and other safety devices required, shall conform to the requirements of the current Work Area Traffic Control Handbook prepared by the Uniform Practices and Utility Coordination Committee of the Southern California Chapter of the American Public Works Association. This publication is also available from Building News, Inc.

2.14.5 Contractor Responsible for Safety Devices. The Contractor shall also be responsible for the installation and removal of all barricades, signs, lights, and other safety devices that may be required.

2.14.6 Permits. Contractor will secure all required permits from the Los Angeles County Public Works Department prior to servicing trees in traffic medians and shall bear the cost of any such permits

**LOS ANGELES COUNTY DEPARTMENT OF BEACHES AND HARBORS
CONTRACT TREE SERVICE**

PART THREE – STANDARD CONTRACT TERMS AND CONDITIONS

3.1 LIMITATION OF COUNTY'S OBLIGATION IN CASE OF NONAPPROPRIATION OF FUNDS

3.1.1 The County's obligation is payable only and solely from funds appropriated for the purpose of this Contract. All funds for payment after June 30th of any fiscal year are subject to County's legislative appropriation for this purpose. Payments during subsequent fiscal periods are dependent upon the same action.

3.1.2 In the event this Contract extends into succeeding fiscal year periods, and if the governing body appropriating the funds does not allocate sufficient funds for the next succeeding fiscal year's payments, then the services shall be terminated as of June 30th of the last fiscal year for which funds were appropriated.

3.2 NONDISCRIMINATION IN EMPLOYMENT

3.2.1 The Contractor shall take affirmative action to ensure that qualified applicants are employed, and that employees are treated equally during employment, without regard to their race, color, religion, sex, ancestry, age, physical disability, marital status, political affiliation, or national origin. Such action shall include, by way of example without limitation: employment; upgrading; recruitment or recruitment advertising; demotion or transfer; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

3.2.2 The Contractor certifies and agrees that all persons employed by the Contractor, its affiliates, subsidiaries or holding companies, are and will be treated equally by the employer without regard to or because of race, color, religion, sex, ancestry, age, physical disability, marital status, political affiliation, or national origin, and in compliance with all antidiscrimination laws of the United States of America and the State of California.

3.2.3 The Contractor certifies and agrees that it will deal with its Subcontractors, bidders, or vendors without regard to their race, color, religion, sex, ancestry, age, physical disability, marital status, political affiliation, or national origin.

3.2.4 The Contractor shall allow the County access to its employment records during regular business hours to verify compliance with these provisions when requested by the County.

3.2.5 If the County finds that any of the above provisions have been violated, the same shall constitute a material breach of contract upon which the County may determine to terminate the Contract. While the County reserves the right to determine independently that the antidiscrimination provisions of the Contract have been violated, a final determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that the Contractor has violated state or federal antidiscrimination laws shall constitute a finding on which the County may conclusively rely that the Contractor has violated the antidiscrimination provisions of the Contract.

3.2.6 The parties agree that in the event the Contractor violates the antidiscrimination provisions of the Contract, the County shall at its option be entitled to a sum of five hundred dollars (\$500) pursuant to Section 1671 of the California Civil Code as damages in lieu of terminating the Contract.

3.3 ASSURANCE OF COMPLIANCE WITH CIVIL RIGHTS LAWS. The Contractor hereby assures it will comply with all applicable federal and state statutes to the end that no person shall, on the grounds of race, religion, ancestry, color, sex, age, physical disability, marital status, political affiliation or national origin, be excluded from participation in, be denied the benefits of, nor be otherwise subjected to discrimination under the Contract or under any project, program, or activity supported by the Contract.

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3.4 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

3.4.1 The Contractor agrees to comply with all applicable federal, state, County and city laws, rules, regulations, ordinances, or codes, and all provisions required by these laws to be included in the Contract are incorporated by reference.

3.4.2 The Contractor warrants that it fully complies with all statutes and regulations regarding the employment eligibility of foreign nationals; that all persons performing the Contract work are eligible for employment in the United States; that it has secured and retained all required documentation verifying employment eligibility of its personnel; and that it shall secure and retain verification of employment eligibility from any new personnel in accordance with the applicable provisions of law.

3.4.3 The Contractor agrees to indemnify and hold the County harmless from any loss, damage or liability resulting from a violation on the part of the Contractor of such laws, rules, regulations or ordinances.

3.5 GOVERNING LAW. The Contract shall be construed in accordance with and governed by the laws of the State of California.

3.6 COVENANT AGAINST CONTINGENT FEES

3.6.1 The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies under contract with the Contractor for the purpose of securing business.

3.6.2 The County shall have the right to terminate the Contract for a breach of this warranty, and, at its sole discretion, recover from the Contractor by way of such means as may be available the full amount of any commission, percentage, brokerage or contingent fee paid.

3.7 TERMINATION FOR IMPROPER CONSIDERATION

3.7.1 The County may, by written notice to the Contractor, immediately terminate the right of

the Contractor to proceed under this Contract if it is found that consideration, in any form, was offered or given by Contractor, either directly or through an intermediary, to any County officer, employee or agent with the intent of securing the Contract or securing favorable treatment with respect to the award, amendment or extension of the Contract or the making of any determinations with respect to the Contractor's performance pursuant to the Contract. In the event of such termination, the County shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

3.7.2 Among other items, such improper consideration may take the form of cash, discounts, services, tangible gifts or the provision of travel or entertainment.

3.7.3 The Contractor shall immediately report any attempt by a County officer, employee or agent to solicit such improper consideration. The report shall be made either to the County manager charged with the supervision of the employee or to the County Auditor-Controller's Employee Fraud Hotline at (213) 974-0914 or (800) 544-6861.

3.8 INDEMNIFICATION. The Contractor shall indemnify, defend and hold harmless the County and its Special Districts, elected and appointed officers, employees and agents ("County") from and against any and all liability, including but not limited to demands, claims, actions, fees, costs and expenses (including attorney and expert witness fees), arising from or connected with Contractor's operations or its services, which result from bodily injury, death, personal injury, or property damage (including damage to Contractor's property). Contractor shall not be obligated to indemnify for liability and expense ensuing from the active negligence of the County.

3.9 INSURANCE

3.9.1 General Insurance Requirements. Without limiting the Contractor's indemnification of the County and during the term of this Contract, the Contractor shall provide and maintain, and shall require all of its Subcontractors to maintain, the programs of insurance specified in this Contract. Such insurance shall be primary to and not contributing with any other insurance or self-

insurance programs maintained by the County, and such coverage shall be provided and maintained at the Contractor's own expense.

3.9.2 Evidence of Insurance. Certificate(s) or other evidence of coverage satisfactory to the County shall be delivered to the Department of Beaches and Harbors, Contract Section, 13837 Fiji Way, Marina del Rey CA 90292 prior to commencing services under this Contract. Such certificates or other evidence shall:

- (1) Specifically identify this Contract;
- (2) Clearly evidence all coverages required in this Contract;
- (3) Contain the express condition that the County is to be given written notice by mail at least 30 days in advance of cancellation for all policies evidenced on the certificate of insurance;
- (4) Include copies of the additional insured endorsement to the commercial general liability policy, adding the County of Los Angeles, its Special Districts, its officials, officers and employees as insureds for all activities arising from this Contract; and
- (5) Identify any deductibles or self-insured retentions for County's approval. The County retains the right to require the Contractor to reduce or eliminate such deductibles or self-insured retentions as they apply to the County, or require the Contractor to provide a bond guaranteeing payment of all such retained losses and related costs, including, but not limited to, expenses or fees, or both, related to investigations, claims administrations and legal defense. Such bond shall be executed by a corporate surety licensed to transact business in the State of California.

3.9.3 Insurer Financial Rating. Insurance is to be provided by an insurance company acceptable to the County with an A.M. Best rating of not less than A:VII, unless otherwise approved by the County.

3.9.4 Failure to Maintain Coverage. Failure by the Contractor to maintain the required insurance or to provide evidence of insurance coverage acceptable to the County shall constitute a material breach of the Contract upon which the County may immediately

terminate or suspend this Contract. The County, at its sole option, may obtain damages from the Contractor resulting from said breach. Alternatively, the County may purchase such required insurance coverage and, without further notice to the Contractor, the County may deduct from sums due to the Contractor any premium costs advanced by the County for such insurance.

3.9.5 Notification of Incidents, Claims or Suits. Contractor shall report to County:

- (1) Any accident or incident related to services performed under this Contract which involves injury or property damage which may result in the filing of a claim or lawsuit against Contractor and/or County. Such report shall be made in writing within 24 hours of occurrence;
- (2) Any third party claim or lawsuit filed against Contractor arising from or related to services performed by Contractor under this Contract;
- (3) Any injury to a Contractor employee that occurs on County property. This report shall be submitted on a County "Non-employee Injury Report" to the County CA; and
- (4) Any loss, disappearance, destruction, misuse, or theft of any kind whatsoever of County property, monies or securities entrusted to Contractor under the terms of this Contract.

3.9.6 Compensation for County Costs. In the event that Contractor fails to comply with any of the indemnification or insurance requirements of this Contract, and such failure to comply results in any costs to the County, Contractor shall pay full compensation for all costs incurred by the County.

3.9.7 Insurance Coverage Requirements for Subcontractors. Contractor shall ensure any and all Subcontractors performing services under this Contract meet insurance requirements of this Contract by either Contractor providing evidence to the CA of insurance covering the activities of Subcontractors, or Contractor providing evidence to the CA submitted by Subcontractors evidencing that Subcontractors maintain the required insurance coverage. The County retains the right to obtain copies of evidence of Subcontractor insurance coverage at any time.

3.9.8 Insurance Coverage Requirements.

The Contractor shall maintain the insurance coverages specified in this Section 3.9.8 in the amounts specified.

3.9.8.1 General liability insurance (written on ISO policy form CG 00 01 or its equivalent) with limits of not less than the following:

General Aggregate: \$2 million

Products/Completed Operations
Aggregate: \$1 million

Personal & Advertising Injury: \$1 million

Each Occurrence: \$1 million

3.9.8.2 Automobile liability insurance (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each accident. Such insurance shall include coverage for all "owned", "hired" and "non-owned" vehicles, or coverage for "any auto".

3.9.8.3 Workers' Compensation and Employers' Liability insurance providing Workers' Compensation benefits as required by the Labor Code of the State of California or by any other state, and for which Contractor is responsible. If Contractor's employees will be engaged in maritime employment, coverage shall provide workers compensation benefits as required by the U.S. Longshore and Harbor Workers' Compensation Act, Jones Act or any other federal law for which Contractor is responsible. In all cases, the above insurance also shall include employers' liability coverage with limits of not less than the following:

Each Accident: \$1 million

Disease – policy limit: \$1 million

Disease – each employee: \$1 million

3.10 STATUS OF CONTRACTOR'S EMPLOYEES; INDEPENDENT STATUS OF CONTRACTOR

3.10.1 Contractor shall at all times be acting as an independent contractor. The Contract is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture or association as between the County and Contractor.

3.10.2 Contractor understands and agrees that all of Contractor's personnel who furnish services to the County under the Contract are employees solely of Contractor and not of County for purposes of Workers' Compensation liability.

3.10.3 Contractor shall bear the sole responsibility and liability for furnishing Workers' Compensation benefits to Contractor's personnel for injuries arising from or connected with the performance of the Contract.

3.11 RECORD RETENTION AND INSPECTION/AUDIT SETTLEMENT

The Contractor shall maintain accurate and complete financial records of its activities and operations relating to this Contract in accordance with generally accepted accounting principles. The Contractor shall also maintain accurate and complete employment and other records relating to its performance of this Contract. The Contractor agrees that the County, or its authorized representative, shall have access to and the right to examine, audit excerpt, copy, or transcribe any pertinent transaction, activity, or record relating to this Contract. All such material, including but not limited to, all financial records, bank statements, cancelled checks or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Contract and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such material prior to such time. All such material shall be maintained by the Contractor at a location in Los Angeles County, provide that if any such material is located outside Los Angeles County, then, at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such material at such other locations.

3.11.1 In the event that an audit of the Contractor is conducted specifically regarding this Contract by any Federal or State auditor, or by any auditor or accountant employed by the Contractor or otherwise, then the Contractor shall file a copy of such audit report with the

County Auditor-Controller within thirty (30) days of the Contractor's receipt thereof, unless otherwise provided by applicable Federal or State law or under this Contract. Subject to applicable law, the County shall make a reasonable effort to maintain the confidentiality of such audit report(s).

3.11.2 Failure on the part of the Contractor to comply with any of the provisions of this Section shall constitute a material breach of this Contract upon which the County may terminate or suspend this Contract.

3.11.3 If, at any time during the term of the Contract or within five (5) years after the expiration or termination of the Contract, representatives of the County conduct an audit of the Contractor regarding the work performed under this Contract and if such audit finds that the County's dollar liability for any such work is less than the payments made by the County to the Contractor, then the difference shall be either: a) repaid by the Contractor to the County by cash payment on demand, or b) at the sole option of the County's Auditor-Controller, deducted from any amounts due to the Contractor from the County whether under this Contract or otherwise. If such audit finds that the County's dollar liability for such work is more than the payments made by the County to the Contractor, then the difference shall be paid to the Contractor by the County by cash payment, provided that in no event shall the County's maximum obligation under the Contract exceed the funds appropriated by the County for the purpose of the Contract.

3.11.4 In addition to the above, the contractor agrees should the County or its authorized representatives determine, in the County's sole discretion, that it is necessary or appropriate to review a broader scope of the Contractor's records (including certain records related to non-County contracts) to enable the County to evaluate the Contractor's compliance with the County's Living Wage Program, that the Contractor shall promptly and without delay provide the County, upon the written request of the County or its authorized representatives, access to and the right to examine, audit, excerpt, copy, or transcribe any and all transactions, activities, or records relating to any of its employees who have provided services to the County under this Contract, including without limitation, records relating to work performed by

said employees on the Contractor's non-County contracts. The Contractor further acknowledges that the foregoing requirement in this Section relative to Contractor's employees who have provided services to the County under this Contract is for the purpose of enabling the County in its discretion to verify the Contractor's full compliance with and adherence to California labor laws and the County's Living Wage Program. All such materials and information, including, but not limited to, all financial records, bank statements, cancelled checks, or other proof of payment, timecards, sign-in/sign-out sheets and other time and employment records, and proprietary data and information, shall be kept and maintained by the Contractor and shall be made available to the County during the term of this Contract and for a period of five (5) years thereafter unless the County's written permission is given to dispose of any such materials and information prior to such time. All such materials and information shall be maintained by the Contractor at a location in Los Angeles County, provided that if any such materials and information is located outside Los Angeles County, then at the County's option, the Contractor shall pay the County for travel, per diem, and other costs incurred by the County to examine, audit, excerpt, copy, or transcribe such materials and information at such other location.

3.12 VALIDITY. The invalidity in whole or in part of any provision of the Contract shall not void or affect the validity of any other provision.

3.13 WAIVER. No waiver of a breach of any provision of the Contract by either party shall constitute a waiver of any other breach of the provision. Failure of either party to enforce a provision of the Contract at any time, or from time to time, shall not be construed as a waiver of the provision or any other provision. The Contract remedies shall be cumulative and additional to any other remedies in law or in equity.

3.14 DISCLOSURE OF INFORMATION

3.14.1 The Contractor shall not disclose any details in connection with the Contract or any work performed under the Contract to any third party, except as may be required by law or as expressly authorized in writing by the Director.

3.14.2 However, recognizing the Contractor's need to identify its services and clients, the Contractor may publicize the Contract work, subject to the following limitations:

(1) All publicity shall be presented in a professional manner.

(2) The name of the County shall not be used in commercial advertisements, press releases, opinions or featured articles, without the prior written consent of the Director. The County shall not unreasonably withhold written consent, and approval by the County shall be deemed to have been given in the absence of objection by the County within two (2) weeks after receipt by the CA of the material submitted by the Contractor for approval by the County.

(3) The Contractor may list the County in any other proposal submitted in response to a request for proposals or bids from a third party without prior written permission of the County.

3.15 COUNTY'S REMEDIES FOR DEFAULT

3.15.1 If the Contractor fails to perform the Contract work in accordance with the covenants, terms and conditions of the Contract or fails to comply with any other material covenant, term or condition of the Contract, the County may, by written notice of default to the Contractor, terminate the whole or any part of the Contract. Nothing in this Section 3.16 shall prevent the County from recovering any and all damages arising from the default. The County may elect not to terminate the Contract without waiving its right to such recovery.

3.15.2 Contractor shall have ten (10) calendar days from written notification of default in which to cure the default. The County, in its sole discretion, may by written notice allow a longer or additional period for cure.

3.15.3 If the Contractor does not cure the default within the time specified by the notice of default or written extension of time, the Contract shall be terminated. In such event, all finished or unfinished documents, data and reports prepared by the Contractor under this Contract shall be transferred immediately to the County.

3.15.4 In the event the County terminates the Contract in whole or in part for the Contractor's

default, the County may procure replacement services from a third party or by County's employees upon such terms and in such manner as the County deems appropriate. The Contractor shall be liable to the County for any excess costs arising from the use of replacement services. Excess costs shall consist of those costs incurred by the County in procuring replacement services, which exceed the costs the County would have been obligated to pay the Contractor for the services in question. The Contractor shall continue performance of any part of the Contract work not terminated.

3.15.5 Except with respect to defaults of Subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to, acts of the public enemy, acts of the County in either its sovereign or contractual capacity, acts of the federal and state governments in their sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargos, and unusually severe weather. If the failure to perform is caused by the default of a Subcontractor arising from causes beyond the control of both Contractor and Subcontractor, and without the negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform unless the Contractor had sufficient time to obtain performance from another party.

3.15.6 If, after termination, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the Contract were terminated pursuant to Section 3.18 (Termination for Convenience of the County).

3.15.7 The rights and remedies of the County provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

3.16 DEFAULT FOR INSOLVENCY

3.16.1 Notwithstanding the provisions of Section 3.16, the County may cancel the Contract for default without giving the Contractor written notice of default and time to cure upon the occurrence of any of the following events:

(1) The Contractor becomes insolvent. The Contractor shall be deemed to be insolvent if it has ceased to pay its debts in the ordinary course of business or cannot pay its debts as they become due, whether it has committed an act of bankruptcy or not, whether it has filed for federal bankruptcy protection and whether it is insolvent within the meaning of the federal bankruptcy law.

(2) The filing of a voluntary petition to have the Contractor declared bankrupt.

(3) The appointment of a receiver or trustee for the Contractor.

(4) The execution of the Contractor of an assignment of the Contract for the benefit of creditors.

3.16.2 The rights and remedies of the County provided in this section shall not be exclusive and are in addition to any rights and remedies provided by law or under the Contract.

3.17 TERMINATION FOR CONVENIENCE OF THE COUNTY

3.17.1 The performance of the Contract work may be terminated in whole or in part from time to time when such action is deemed by the County to be in its best interest, subject to delivery to the Contractor of a ten (10) day advance notice of termination specifying the extent to which the Contract work is terminated, and the date upon which such termination becomes effective. After receipt of a notice of suspension of performance or termination, the Contractor shall stop the Contract work on the date and to the extent specified in the notice.

3.17.2 County may suspend performance or terminate the Contract without liability for damages if County is prevented from performing by reasons beyond its control, including but not limited to operation of laws, acts of God, and official acts of local, state, or federal authorities.

3.17.3 The County and Contractor shall negotiate an equitable amount to be paid the Contractor by reason of the total or partial termination of work pursuant to this section, which amount may include a reasonable allowance for profit on the Contract work that has been performed and has not been paid, provided that such amount shall not exceed the

total obligation to pay for the Contract work performed as reduced by the amount of Contract payments otherwise made.

3.17.4 The Contractor shall make available to the County, for a period of four (4) years after Contract termination, at all reasonable times, at the office of the Contractor, all books, records, documents, or other evidence bearing on the costs and expenses of the Contractor in respect to the termination under this section of the Contract work. In the event records are located outside the County of Los Angeles, the Contractor will pay the County for traveling and per diem costs connected with the inspection or audit.

3.18 NOTICE OF DELAY. Except as otherwise provided, when either party knows of any fact that will prevent timely performance of the Contract, that party shall give notice, including all relevant information, to the other party within five days.

3.19 NOTIFICATION. Except as otherwise provided by the Contract, notices desired or required to be given by law or under the Contract may, at the option of the party giving notice, be given by enclosing a written notice in a sealed envelope addressed to the party for whom intended and by depositing such envelope with postage prepaid in the United States mail. Any such notice shall be addressed to the Contractor at the address shown for the Contractor in the Proposal or such other place designated in writing by the Contractor. Notice to the County shall be addressed to the Director, Department of Beaches and Harbors, 13837 Fiji Way, Marina del Rey, California 90292, or such other place as the Director may designate in writing.

3.20 CONFLICT OF INTEREST

3.20.1 The Contractor represents and warrants the statements set forth in the conflict of interest certification of its Proposal are true and correct.

3.20.2 The Contractor further agrees that anyone who is an employee or former employee of the County at the time of execution of the Contract by the Board of Supervisors and who subsequently becomes affiliated with the Contractor in any capacity shall not perform the Contract work or share in the Contractor's profits for a period of one (1) year from the date of

termination of the employee's employment with the County.

3.20.3 The County shall have the right to terminate the Contract for a breach by the Contractor of either its warranty or promise on the absence of the prohibited conflicts of interest.

3.21 DELEGATION AND ASSIGNMENT

3.21.1 The Contractor may not delegate its duties or assign its rights under the Contract, either in whole or in part, without the written prior consent of the Director. Any delegation of duties or assignment of rights under the Contract without the expressed written consent of the County shall be null and void and shall constitute a breach for which the Contract may be terminated.

3.21.2 Any delegation of duties or assignment of rights (including but not limited to a merger, acquisition, asset sale and the like) shall be in the form of a subcontract or formal assignment, as applicable. The Contractor's request to the Director for approval of an assignment shall include all information that must be submitted with a request by the Contractor to the County for approval of a subcontract of the Contract work pursuant to Section 3.23.

3.22 SUBCONTRACTING

3.22.1 Performance of the Contract work may not be subcontracted without the express written consent of the Director or authorized representative. Any subcontract of the Contract work without the express written consent of the Director or authorized representative shall be null and void and shall constitute a breach for which the Contract may be terminated.

3.22.2 The Contractor's request to the Director for approval to enter into a subcontract of the Contract work shall include:

- (1) A description of the work to be performed by the Subcontractor;
- (2) Identification of the proposed Subcontractor and an explanation of why and how the proposed Subcontractor was selected, including the degree of competition in the selection process;

(3) The proposed subcontract amount, together with the Contractor's cost or price analysis; and

(4) A copy of the proposed subcontract.

3.22.3 In the event the Director or authorized representative should consent to a subcontract for the performance of the Contract work, the terms and conditions of the Contract shall be made expressly applicable to the work that is to be performed by the Subcontractor.

3.22.4 In the event the Director or authorized representative should consent to a subcontract, the Contractor shall provide in the approved subcontract an agreement that the work of the Subcontractor is pursuant to the terms of a prime contract with the County of Los Angeles, and that all representations and warranties shall inure to the benefit of the County of Los Angeles.

3.22.5 Subcontracts shall be made in the name of the Contractor and shall not bind nor purport to bind the County. The making of subcontracts shall not relieve the Contractor from performing the Contract work in accordance with the terms and conditions of the Contract. Approval of any subcontract by the County shall not be construed as effecting any increase in the compensation to be paid for the Contract work.

3.22.6 Any later modification or amendment of the subcontract shall be approved in writing by the Director or authorized representative before such modification or amendment is effective.

3.23 CHANGES AND AMENDMENTS

3.23.1 Except as provided in this Section 3.24, renewals and other modifications of this Contract shall be in writing and shall be executed by the parties and approved by the Board in the same manner as the Contract.

3.23.2 A change which does not materially effect the scope of work, period of performance, compensation, method of payment, insurance or other material term or condition of the Contract shall be effective upon the Director or his authorized representative and the Contractor signing an amendment or other writing reflecting a modification of the Contract.

3.23.3 The Director or authorized representative may, in his or her sole discretion,

grant the Contractor extensions of time for performance of the work where such extensions do not materially effect the work. Such extensions shall not be deemed to extend the term of the Contract.

3.24 PROPRIETARY RIGHTS. All materials, data and other information of any kind obtained from County personnel and all materials, data, reports and other information of any kind developed by the Contractor under the Contract are the property of the County, and the Contractor agrees to take all necessary measures to protect the security and confidentiality of all such materials, data, reports and information. The provisions of this paragraph shall survive the expiration or other termination of the Contract.

3.25 TIME. Except as specifically otherwise provided in the Contract, time is of the essence in the performance of the Contract work and all terms and conditions of the Contract with respect to such performance shall be construed.

3.26 AUTHORIZATION. The Contractor represents and warrants that its signatory to the Contract is fully authorized to obligate the Contractor for performance of the Contract work, and that all necessary acts to the execution of the Contract have been performed.

3.27 COMPLIANCE WITH COUNTY LOBBYING REQUIREMENTS

3.27.1 The Contractor and each County lobbyist or County lobbying firm, as defined in Los Angeles County Code Section 2.160.010, retained by the Contractor shall fully comply with the County Lobbyist Ordinance, Los Angeles County Code Chapter 2.160.

3.27.2 Failure on the part of the Contractor or any County lobbyist or County lobbying firm retained by the Contractor to fully comply with the County Lobbyist Ordinance shall constitute a material breach of the Contract upon which the County may immediately terminate or suspend the Contract notwithstanding the opportunity to cure otherwise made available under Section 3.16.

3.28 CONSIDERATION OF HIRING COUNTY EMPLOYEES ON A REEMPLOYMENT LIST OR TARGETED FOR LAYOFFS

Should the Contractor require additional or replacement personnel after the effective date of this Contract to perform the services set forth herein, the Contractor shall give first consideration for such employment openings to qualified permanent County employees who are targeted for layoff or qualified former County employees who are on a reemployment list during the life of this agreement.

3.29 CONSIDERATION OF GREATER AVENUES FOR INDEPENDENCE (GAIN) OR GENERAL RELIEF OPPORTUNITIES FOR WORK (GROW) PARTICIPANTS FOR EMPLOYMENT

Should the Contractor require additional or replacement personnel after the effective date of the agreement, contractor shall give consideration for any such employment openings to participants in the County's Department of Public Social Services' Greater Avenues for Independence (GAIN) Program or General Relief Opportunities for Work (GROW) Program who meet Contractor's minimum qualifications for the open position. County will refer GAIN/GROW participants, by job category, to Contractor.

3.30 COUNTY'S CHILD SUPPORT COMPLIANCE PROGRAM

3.30.1 Contractor's Warranty of Adherence to County Child Support Compliance Program. Contractor acknowledges that County has established a goal of ensuring that all individuals who benefit financially from County through contract are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon County and its taxpayers.

As required by the County's Child Support Compliance Program (County Code Chapter 2.200) and without limiting the Contractor's duty under this Contract to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall during the term of this Contract maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (41 USC Section 653a) and California Unemployment Insurance Wage and Earnings Withholding Orders or Child Support Services Department Notices of Wage and Earnings

Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

3.30.2 Termination for Breach of Warranty to Maintain Compliance with County Child Support Compliance Program. Failure of Contractor to maintain compliance with the requirements set forth in the preceding Section 3.31.1 "Contractor's Warranty of Adherence to County's Child Support Compliance Program" shall constitute a default by Contractor under this Contract. Without limiting the rights and remedies available to County under any other provision of this Contract, failure to cure such default within 90 days of notice by the Los Angeles County Child Support Services Department shall be grounds upon which the County Board of Supervisors may terminate this Contract pursuant to Section 3.16 "County's Remedies for Default."

3.30.3 Voluntary Posting of "Delinquent Parents" Poster. Contractor acknowledges that County places a high priority on the enforcement of child support laws and apprehension of child support evaders. Contractor understands that it is County's policy to encourage all County contractors to voluntarily post County's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at Contractor's place of business. County Child Support Services Department will supply Contractor with the poster to be used.

3.31 COMPLIANCE WITH LIVING WAGE PROGRAM

3.31.1 Living Wage Program. This Contract is subject to the provisions of the County's ordinance entitled Living Wage Program ("Program") as codified in Sections 2.201.010 through 2.201.100 of the Los Angeles County Code, a copy of which is attached hereto as Exhibit 10 and incorporated by reference into and made a part of the Contract.

3.31.2 Payment of Living Wage Rates.

3.31.2.1 Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not an "Employer" as defined under the Program (Section 2.201.020 of the County Code) or that Contractor qualifies for an exception to the Program (Section 2.201.090 of the County Code), Contractor shall pay its Employees no

less than the applicable hourly living wage rate, as set forth immediately below, for the Employees' services provided to the County under the Contract:

(a) Not less than \$11.84 per hour if, in addition to the per-hour wage, Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents; or

(b) Not less than \$9.64 per hour if, in addition to the per-hour wage, Contractor contributes at least \$2.20 per hour towards the provision of bona fide health care benefits for its Employees and any dependents. Contractor will be deemed to have contributed \$2.20 per hour towards the provision of bona fide health care benefits if the benefits are provided through the County Department of Health Services Community Health Plan. If, at any time during the Contract, Contractor contributes less than \$2.20 per hour towards the provision of bona fide health care benefits, Contractor shall be required to pay its Employees the higher hourly living wage rate.

3.31.2.2 For purposes of this Section, "Contractor" includes any Subcontractor engaged by Contractor to perform services for the County under the Contract. If Contractor uses any Subcontractor to perform services for the County under the Contract, the Subcontractor shall be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Living Wage Program shall be attached to the agreement. "Employee" means any individual who is an employee of Contractor under the laws of California, and who is providing full-time services to Contractor, some or all of which are provided to the County under the Contract. "Full-time" means a minimum of 40 hours worked per week, or a lesser number of hours, if the lesser number is a recognized industry standard and is approved as such by the County; however, fewer than 35 hours worked per week will not, in any event, be considered full time.

3.31.2.3 If Contractor is required to pay a living wage when the Contract commences, Contractor shall continue to pay a living wage for the entire term of the Contract, including any option period.

3.31.2.4 If Contractor is not required to pay a living wage when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exemption status" from the living wage requirement, and Contractor shall immediately notify County if Contractor at any time either comes within the Program's definition of "Employer" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately be required to commence paying the living wage and shall be obligated to pay the living wage for the remaining term of the Contract, including any option period. The County may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Program's definition of "Employer" and/or that Contractor continues to qualify for an exception to the Program. Unless Contractor satisfies this requirement within the time frame permitted by the County, Contractor shall immediately be required to pay the living wage for the remaining term of the Contract, including any option period.

3.31.2.5 For purposes of the Contractor's obligation to pay its Employees an applicable hourly living wage rate under this contract, "Travel Time" shall have the following two meanings, as applicable: 1) With respect to travel by an Employee that is undertaken in connection with this Contract, Travel Time shall mean any period during which an employee physically travels to or from a County facility if the Contractor pays the Employee any amount for that time or if California law requires the contractor to pay the Employee any amount for that time; and 2) With respect to travel by an employee between County facilities that are subject to two different contracts between the Contractor and the County (of which both contracts are subject to the Living Wage Program), Travel Time shall mean any period during which an Employee physically travels to or from, or between such County facilities if the Contractor pays the Employee any amount for that time or if California law requires the Contractor to pay the Employee any amount for that time.

3.31.3 Contractor's Submittal of Certified Monitoring Reports. Contractor shall submit to the County certified monitoring reports at a frequency instructed by the County. The

certified monitoring reports shall list all of Contractor's Employees during the reporting period. The certified monitoring reports shall also verify the number of hours worked, the hourly wage rate paid, and the amount paid by Contractor for health benefits, if any, for each of its Employees. The certified monitoring reports shall also state the name and identification number of Contractor's current health care benefits plan, and Contractor's portion of the premiums paid as well as the portion paid by each Employee. All certified monitoring reports shall be submitted on forms provided by the County, or any other form approved by the County which contains the above information. The County reserves the right to request any additional information it may deem necessary. If the County requests additional information, Contractor shall promptly provide such information. Contractor, through one of its officers, shall certify under penalty of perjury that the information contained in each certified monitoring report is true and accurate.

3.31.4 Contractor's Ongoing Obligation to Report Labor Law/Payroll Violations and Claims.

During the term of the Contract, if the Contractor becomes aware of any labor law/payroll violation or any complaint, investigation or proceeding ("claim") concerning any alleged labor law/payroll violation (including but not limited to any violation or claim pertaining to wages, hours and working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination), the Contractor shall immediately inform the County of any pertinent facts known by the Contractor regarding same. This disclosure obligation is not limited to any labor law/payroll violation or claim arising out of the Contractor's Contract with the County, but instead applies to any labor law/payroll violation or claim arising out of any of the Contractor's operations in California.

3.31.5 County Auditing of Contractor Records. Upon a minimum of twenty-four (24) hours' written notice, the County may audit, at Contractor's place of business, any of Contractor's records pertaining to the Contract, including all documents and information relating to the certified monitoring reports. Contractor is required to maintain all such records in California until the expiration of four years from the date of final payment under the Contract.

Authorized agents of the County shall have access to all such records during normal business hours for the entire period that records are to be maintained.

3.31.6 Notifications to Employees.

Contractor shall place County-provided living wage posters at each of Contractor's place of business and locations where Contractor's Employees are working. Contractor shall also distribute County-provided notices to each of its Employees at least once per year. Contractor shall translate the posters and handouts into Spanish and any other language spoken by a significant number of Employees.

3.31.7 Enforcement and Remedies. If Contractor fails to comply with the requirements of this Section, the County shall have the rights and remedies described in this Section in addition to any rights and remedies provided by law or equity.

3.31.7.1 Remedies For Submission of Late or Incomplete Certified Monitoring Reports. If Contractor submits a certified monitoring report to the County after the date it is due or if the report submitted does not contain all of the required information or is inaccurate or is not properly certified, any such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

(a) Withholding of Payment. If Contractor fails to submit accurate, complete, timely and properly certified monitoring reports, the County may withhold from payment to Contractor up to the full amount of any invoice that would otherwise be due, until Contractor has satisfied the concerns of the County, which may include required submittal of revised certified monitoring reports or additional supporting documentation.

(b) Liquidated Damages. It is mutually understood and agreed that Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and most exact measure of damages for such

breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Contractor's breach. Therefore, in the event that a certified monitoring report is deficient, including but not limited to being late, inaccurate, incomplete or uncertified, it is agreed that the County may, in its sole discretion, assess against Contractor liquidated damages in the amount of \$100 per monitoring report for each day until the County has been provided with a properly prepared, complete and certified monitoring report. The County may deduct any assessed liquidated damages from any payments otherwise due Contractor.

(c) Termination. Contractor's failure to submit an accurate, complete, timely and properly certified monitoring report may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

3.31.7.2 Remedies for Payment of Less Than the Required Living Wage. If Contractor fails to pay any Employee at least the applicable hourly living wage rate, such deficiency shall constitute a breach of the Contract. In the event of any such breach, the County may, in its sole discretion, exercise any or all of the following rights/remedies:

(a) Withholding Payment. If Contractor fails to pay one or more of its Employees at least the applicable hourly living wage rate, the County may withhold from any payment otherwise due Contractor the aggregate difference between the living wage amounts Contractor was required to pay its Employees for a given pay period and the amount actually paid to the Employees for that pay period. The County may withhold said amount until Contractor has satisfied the County that any underpayment has been cured, which may include required submittal of revised certified monitoring reports or additional supporting documentation

(b) Liquidated Damages. It is mutually understood and agreed that Contractor's failure to pay any of its Employees at least the applicable hourly living wage rate will result in damages being sustained by the County. It is also understood and agreed that the nature and amount of the damages will be extremely difficult and impractical to fix; that the liquidated damages set forth herein are the nearest and

most exact measure of damages for such breach that can be fixed at this time; and that the liquidated damages are not intended as a penalty or forfeiture for Contractor's breach. Therefore, it is agreed that the County may, in its sole discretion, assess against Contractor liquidated damages of \$50 per Employee per day for each and every instance of an underpayment to an Employee. The County may deduct any assessed liquidated damages from any payments otherwise due Contractor.

(c) Termination. Contractor's failure to pay any of its Employees the applicable hourly living wage rate may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

3.31.8 Debarment. In the event Contractor breaches a requirement of this Section, the County may, in its sole discretion, bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach, in accordance with Los Angeles County Code, Chapter 2.202, Determination of Contractor Non-Responsibility and Contractor Debarment.

3.31.9 Use of Full-Time Employees. Contractor shall assign and use full-time employees of Contractor to provide services under the Contract unless Contractor can demonstrate to the satisfaction of the County that it is necessary to use non-full-time employees based on staffing efficiency or County requirements for the work to be performed under the Contract. It is understood and agreed that Contractor shall not, under any circumstance, use non-full-time employees for services provided under the Contract unless and until the County has provided written authorization for the use of same. Contractor submitted with its proposal a full time employee staffing plan. If Contractor changes its full time employee staffing plan, Contractor shall immediately provide a copy of the new staffing plan to the County.

3.31.10 Contractor Retaliation Prohibited. Contractor and/or its employees shall not take any adverse action which would result in the loss of any benefit of employment, any contract benefit, or any statutory benefit for any employee, person or entity who has reported a violation of the Program to the County or to any

other public or private agency, entity or person. A violation of the provisions of this paragraph may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract.

3.31.11 Contractor Standards. During the term of the Contract, Contractor shall maintain business stability, integrity in employee relations and the financial ability to pay a living wage to its employees. If requested to do so by the County, Contractor shall demonstrate to the satisfaction of the County that Contractor is complying with this requirement.

3.31.12 Neutrality in Labor Relations. Contractor shall not use any consideration received under the Contract to hinder, or to further, organization of, or collective bargaining activities by or on behalf of Contractor's employees, except that this restriction shall not apply to any expenditure made in the course of good faith collective bargaining, or to any expenditure pursuant to obligations incurred under a bona fide collective bargaining agreement, or which would otherwise be permitted under the provisions of the National Labor Relations Act.

3.32 CONTRACTOR RESPONSIBILITY AND DEBARMENT

3.32.1 A responsible Contractor is a Contractor who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the Contract. It is the County's policy to conduct business only with responsible Contractors.

3.32.2 The Contractor is hereby notified that, in accordance with Chapter 2.202 of the County Code, if the County acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the County may, in addition to other remedies provided in the Contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on County contracts for a specified period of time, which generally will not exceed five years but may exceed five years or be permanent if warranted by the circumstances, and terminate any or all existing Contracts the Contractor may have with the County.

3.32.3 The County may debar a Contractor if the Board of Supervisors finds, in its discretion, that the Contractor has done any of the following: (1) violated a term of a contract with the County or a nonprofit corporation created by the County, (2) committed an act or omission which negatively reflects on the Contractor's quality, fitness or capacity to perform a contract with the County, any other public entity, or a nonprofit corporation created by the County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the County or any other public entity.

3.32.4 If there is evidence that the Contractor may be subject to debarment, the Department will notify the Contractor in writing of the evidence which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.

3.32.5 The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the Department shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Supervisors.

3.32.6 After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision, and any other recommendation of the Contractor Hearing Board shall be presented to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

3.32.7 If a Contractor has been debarred for a period longer than five (5) years, that Contractor may after the debarment has been in effect for at least five (5) years, submit a written request for review of the debarment or terminate the

debarment if it finds that the Contractor as adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the County.

3.32.8 The Contractor Hearing Board will consider a request for review of a debarment determination only where (1) the Contractor has been debarred for a period longer than five (5) years; (2) the debarment has been in effect for at least five (5) years; and (3) the request is in writing, states one or more of the grounds for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment hearing.

3.32.9 The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its decision and recommendation to the Board of Supervisors. The Board of Supervisors shall have the right to modify, deny, or adopt the proposed decision and recommendation of the Contractor Hearing Board.

3.32.10 These terms shall also apply to Subcontractors of County Contractors.

3.33 NOTICE TO EMPLOYEES REGARDING THE FEDERAL EARNED INCOME TAX CREDIT. Contractor shall notify its employees, and shall require each Subcontractor to notify its employees, that they may be eligible for the federal Earned Income Tax Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Internal Revenue Service Notice 1015.

3.34 CONTRACTOR TO USE RECYCLED PAPER. Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on all work performed under this Contract.

3.35 COMPLIANCE WITH JURY SERVICE PROGRAM

3.35.1 Jury Service Program. This Contract is subject to the provisions of the County's ordinance entitled Contractor Employee Jury Service ("Jury Service Program") as codified in Sections 2.203.010 through 2.203.090 of the Los Angeles County Code.

3.35.2 Written Employee Jury Service Program.

3.35.2.1 Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program (Section 2.203.020 of the County Code) or that the Contractor qualifies for an exception to the Jury Service Program (Section 2.203.070 of the County Code), Contractor shall have and adhere to a written policy that provides that its employees shall receive from the Contractor, on an annual basis, no less than five days regular pay for actual jury service. The policy may provide that employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the employee's regular pay the fees received for jury service.

3.35.2.2 For purposes of this section, "Contractor" means a person, partnership, corporation, or other entity which has a contract with the County or a subcontract with a County contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time means 40 hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the County, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full time. Full-time employees providing short-term, temporary services of 90 days or less within a 12-month period are not considered

full time for purposes of the Jury Service Program. If Contractor uses any Subcontractor to perform services for the County under this Contract, the Subcontractor shall also be subject to the provisions of this section. The provisions of this section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.

3.35.2.3 If Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify County if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The County may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the County's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.

3.35.2.4 Contractor's violation of this section of the Contract may constitute a material breach of the Contract. In the event of such material breach, County may, in its sole discretion, terminate the Contract and/or bar Contractor from the award of future County contracts for a period of time consistent with the seriousness of the breach.

3.36 SAFELY SURRENDERED BABY LAW

3.36.1 Notice to Employees Regarding the Safely Surrendered Baby Law. The Contractor shall notify and provide to its employees, and require each Subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheet is set forth in Exhibit 11 of this Contract and is also available on the Internet at www.babysafela.org for printing purposes.

3.36.2 Contractor's Acknowledgment of County's Commitment to the Safely

Surrendered Baby Law. The Contractor acknowledges that the County places high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the County's policy to encourage all County Contractors to voluntarily post the County's "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used.

3.37 NO PAYMENT FOR SERVICES PROVIDED FOLLOWING EXPIRATION/TERMINATION OF A CONTRACT

Contractor shall have no claim against County for payment of money or reimbursement of any kind whatsoever for any service provided by Contractor after the expiration or other termination of this Contract. Should Contractor receive any such payment, it shall immediately notify County and shall immediately repay all such funds to County. Payment by County for services rendered after expiration/termination of this Contract shall not constitute a waiver of County's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Contract.

IN WITNESS WHEREOF, the County has, by order of its Board of Supervisors, caused this Contract to be subscribed by the Chair of said Board and attested by the Executive Officer thereof, and the Contractor, by its duly authorized representative, has executed the same, as of the day, month, and year set forth below.

TruGreen Landcare, LLC

By Sergio Hernandez
Sergio Hernandez, Branch Manager

By Yvonne B. Burke
Chair, Board of Supervisors

SACHI A. HAMAI
Executive Officer-Clerk of
The Board of Supervisors



I hereby certify that pursuant to
Section 25103 of the Government Code,
delivery of this document has been made.

By [Signature]
Deputy

SACHI A. HAMAI
Executive Officer
Clerk of the Board of Supervisors

By [Signature]
Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER
County Counsel

By [Signature]
Principal Deputy County Counsel

ADOPTED
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

31 NOV 18 2008

Sachi A. Hamai
SACHI A. HAMAI
EXECUTIVE OFFICER

31 NOV 18, 2008

76754

**Department of Beaches and Harbors
Tree Service Contract
Estimated Net Savings From Contracting**

County Cost Analysis			
Cost Items	Tree Trimmer 0391A	Tree Trimmer Supervisor 0394A	Totals
Top Step Salaries (monthly) ¹	\$ 3,853.45	\$ 4,292.09	
Required Service Level - actual avoidable positions ²	2	1	3
Annual Salary Cost	\$ 92,482.80	\$ 51,505.08	\$ 143,987.88
Adjustment for top step salaries variance at 92.8186% ³	\$ (6,641.56)	\$ (3,698.79)	\$ (10,340.35)
Estimated actual avoidable salaries	\$ 85,841.24	\$ 47,806.29	\$ 133,647.53
Add: Related employee benefits at 45.862% ³	\$ 39,368.51	\$ 21,924.92	\$ 61,293.43
Estimated actual avoidable annual direct labor cost ⁴	\$125,209.75	\$ 69,731.21	\$ 194,940.96
Supplies ⁵			\$ 1,500.00
Biologist Services ⁶			\$ 25,704.00
Estimated Actual Avoidable Cost			\$ 222,144.96
Contract Cost			\$ (131,800.00)
Net Savings from Contracting			\$ 90,344.96

(1) Salaries in effect as of July 1, 2008.

(2) The County avoidable positions for the Tree Trimmer (0391A) is determined based on the 2,976 hours required by the selected proposer divided by the annual productive work hours of 1,767. A Tree Trimmer Supervisor (0394A) is also required by the selected proposer.

(3) Provided by the Auditor-Controller.

(4) No departmental indirect costs are avoidable.

(5) Amount based on the supplies cost submitted by the selected proposer.

(6) The cost for Biologist Services is based on the 136 hours required by the selected proposer at the Public Works billing rate for Biologist Services of \$189 per hour.

**TREE SERVICE PROPOSERS
FIRM/ORGANIZATION INFORMATION**

ATTACHMENT III

PROPOSER	Certified Local SBE	COMPOSITION	OWNERS/ PARTNERS/ ASSOCIATE PARTNERS		MGRS		STAFF		TOTAL		
			M	F	M	F	M	F		M	F
Far East Landscape & Maintenance	N	Black/African American							0		
		Hispanic/Latino			2			13	15		
		Asian or Pacific Islander	1						1		
		Amer. Indian/Alaska Native							0		
		Filipino American							0		
		White							0		
		TOTALS	1	0	2	0	0	13	16	3	13
Mariposa	N	Black/African American							0		
		Hispanic/Latino	1		11	1	319	3	335		
		Asian or Pacific Islander				1	1		2		
		Amer. Indian/Alaska Native							0		
		Filipino American							0		
		White			7	1			8		
		TOTALS	1	0	18	3	320	3	345	339	6
Travers Tree Service, Inc.	N	Black/African American					1		1		
		Hispanic/Latino			4	1	40	3	48		
		Asian or Pacific Islander							0		
		Amer. Indian/Alaska Native							0		
		Filipino American							0		
		White			4	1			5		
		TOTALS	0	0	8	2	41	3	54	49	5

**TREE SERVICE PROPOSERS
FIRM/ORGANIZATION INFORMATION**

ATTACHMENT III

PROPOSER	Certified Local SBE	COMPOSITION	OWNERS/ PARTNERS/ ASSOCIATE PARTNERS		MGRS		STAFF		TOTAL		
			M	F	M	F	M	F		M	F
Trimming Land Co. Inc	N	Black/African American							0		
		Hispanic/Latino	1		1		28	2	32		
		Asian or Pacific Islander							0		
		Amer. Indian/Alaska Native							0		
		Filipino American							0		
		White							0		
		TOTALS	1	0	1	0	28	2	32		
TruGreen Landcare	N	Black/African American							0		
		Hispanic/Latino			16	1	321	3	341		
		Asian or Pacific Islander							0		
		Amer. Indian/Alaska Native							0		
		Filipino American							0		
		White			2				2		
		TOTALS	0	0	18	1	321	3	343		
United Pacific Services	Y	Black/African American					3		3		
		Hispanic/Latino			4		36	1	41		
		Asian or Pacific Islander							0		
		Amer. Indian/Alaska Native			1				1		
		Filipino American							0		
		White	1	1	3			2	7		
		TOTALS	1	1	8	0	39	3	52		

PRICE PROPOSAL

Fill in all of the unshaded boxes This chart will be used for a variety of purposes as follows.:

- The first column represents items of expense incurred by the Contractor in providing the service.
- The second column should show the annual staffing hours of landscape tree service workers required by the Contract and the hours of service rendered by "Other Personnel" such as supervisors and contract managers. No minimum hourly requirement is given for these positions, but the quoted numbers will be used by the County to assist in evaluation of the adequacy of the Proposer's Work Plan (Form P-2).
- The next column ("Hourly Wage") should reflect actual hourly wages paid, which the County will use to judge whether the Proposer complies with the County Living Wage Program (Exhibit 10).
- The next column (Contractor's annual cost) should accurately reflect all cost items, as well as profit, that are included in the proposed annual price -- TOTAL (ANNUAL COST TO COUNTY).
- The "Annual Cost to County" will be used for Proposal Price evaluation purposes. The total should equal the Proposer's expected compensation for providing the services.
- The lower right box "Hourly Rate for Additional Work" will be used for adjustments to monthly compensation in those instances when a change in staffing levels or extra work has been authorized by the Director. The hourly rate must equal the Annual Cost to County divided by the annual staffing hours, or the cost of one hour of janitorial services.

COST ITEMS	ANNUAL STAFFING HOURS	HOURLY WAGE	CONTRACTOR'S ANNUAL COST
TREE SERVICES WORKERS	2976	\$ 15.48	\$ 46068.48
BIOLOGIST	136	\$ 65	\$ 8840.00
OTHER PERSONNEL			
SUPERVISOR		\$	\$
CONTRACTOR REPRESENTATIVE		\$	\$
1	\$ 136	\$ 65	\$ 8840.00
HEALTH PLAN			\$ 1500
OTHER BENEFITS, IF ANY			\$ 3200
SUPPLIES			\$ 1500
OTHER EXPENSES & OVERHEAD			\$ 39000
PROFIT			\$ 22851.52
TOTAL (ANNUAL COST TO COUNTY)			\$ 131,800
HOURLY RATE FOR INCREASED OR REDUCED SERVICES			\$ 40.56

FORM P-2 – PROPOSER'S WORK PLAN

1. SUPERVISION. Show the job titles, names and experience of key employees responsible for planning, supervising and inspecting the Contract work. (Attach resumes if available.)

Position	Name	Experience
Contractor's Representative:	David Evans	David Evans has over 15 years of experience as TruGreen's Contractor Representative to the Department of Beaches & Harbors MDR
Supervisors:	Juan Limon	Juan Limon has been working with our tree crew for 19 years
	Sergio Hernandez	Sergio Hernandez has more than 20 years of involvement with providing tree care services at Marina Del Ray. Sergio has been
Others:		a certified Arborist for 10 years

2. VEHICLES, SUPPLIES AND MATERIALS. List the vehicles, supplies and materials that you own or lease that you will use to perform the Contract work:

SEE ATTACHED

3. OPERATIONAL PLAN. Describe your plan for scheduling workers, transporting them to the job sites, keeping them supplied and supervising them:

SEE ATTACHED

PROPOSER'S WORK PLAN (continued)

7. STAFFING PLAN

PROPOSER:

POSITION TITLE	EMPLOYEE	<input checked="" type="checkbox"/> FULL-TIME/ <input checked="" type="checkbox"/> PART-TIME		HOURLY RATE	<input checked="" type="checkbox"/> HEALTH INS.	HOURS OF WORK							WEEKLY HOURS	OTHER HOURS*
						MON	TUE	WED	THU	FRI	SAT	SUN		
Tree Crew Supervisor		<input checked="" type="checkbox"/> F	<input type="checkbox"/> P	\$24	<input type="checkbox"/>	8	8	8	8	8			40	
Boom Operator/Climber		<input checked="" type="checkbox"/> F	<input type="checkbox"/> P	\$16	<input type="checkbox"/>	8	8	8	8	8			40	
Boom Operator/Climber		<input checked="" type="checkbox"/> F	<input type="checkbox"/> P	\$15	<input type="checkbox"/>	8	8	8	8	8			40	
Heavy Equipment Operator		<input checked="" type="checkbox"/> F	<input type="checkbox"/> P	\$14	<input type="checkbox"/>	8	8	8	8	8			40	
Groundsman		<input checked="" type="checkbox"/> F	<input type="checkbox"/> P	\$11.84	<input type="checkbox"/>	8	8	8	8	8			40	
Groundsman		<input checked="" type="checkbox"/> F	<input type="checkbox"/> P	\$11.84	<input type="checkbox"/>	8	8	8	8	8			40	
		<input type="checkbox"/> F	<input type="checkbox"/> P		<input type="checkbox"/>									
		<input type="checkbox"/> F	<input type="checkbox"/> P		<input type="checkbox"/>									
		<input type="checkbox"/> F	<input type="checkbox"/> P		<input type="checkbox"/>									
		<input type="checkbox"/> F	<input type="checkbox"/> P		<input type="checkbox"/>									
		<input type="checkbox"/> F	<input type="checkbox"/> P		<input type="checkbox"/>									

*Show full-time employees' hours worked at other locations, if necessary, to demonstrate 40-hour schedule.

8. JUSTIFICATION OF PART-TIME WORKERS. If your staffing plan (above) includes any part-time employees, attach a detailed justification why it was necessary to do so. Unjustified failure to use full-time workers will result in disqualification.

N/A

9. ADDITIONAL INFORMATION (Attach pages if necessary):

Staffing plan is only for the months of October, November and December per contract specifications.

FORM P-3 – PROPOSER'S QUALITY CONTROL PLAN

1. Who will inspect the Contract Work and how often will each area be inspected?

SEE ATTACHED

2. What steps will you take to correct deficiencies reported by the Department or discovered by your inspectors?

SEE ATTACHED

3. If the Department complains that work has not been adequately performed and requests immediate correction, how soon will your company respond?

SEE ATTACHED

4. How will you cover unexpected worker and supervisor absences?

SEE ATTACHED

5. If you have a written Quality Control Plan, inspection plan or written procedures for your staff and supervisors, please attach them.

N/A

FORM P-3 – PROPOSER'S QUALITY CONTROL PLAN

1. WHO WILL INSPECT:

Operations Manager/ Contractor's Representative:

TruGreens Landcare's Operations Manager shall inspect tree services from October through December at least once per week. During the other months of the year the work sites shall be inspected on a monthly basis for hazards.

Tree Crew Supervisor:

Our supervisor shall inspect the tree crews work on a daily basis (Monday through Friday) during the service period (October through December).

Branch Manager/ Certified Arborist:

Our Arborist shall inspect tree services from October through December at least once per week. Monthly inspections shall be done during January through September.

Biologist:

The Biologist shall inspect tree services at least once every seven days during October through December.

2. STEPS TO CORRECT DEFICIENCIES:

Step #1: The Contractor's Representative and the Tree Crew Supervisor shall be promptly notified of any deficiencies reported by the County, TruGreen's staff or sub-contracted Biologist.

Step #2: The County shall be notified of the deficiency in writing. Included in this notification shall be a time line of when the deficiency can be corrected.

Step #3: TruGreen Landcare shall schedule the appropriate staff to correct the deficiency in the timeliest manner.

Step #4: Trugreen Landcare shall notify the County in writing when the deficiency is resolved.

3. RESPONSE TIME TO DEPARTMENT COMPLAINTS:

TruGreen Landcare shall respond to the County within twenty-four hours or sooner if deficiencies are reported to us by the Department of Beaches & Harbors.

4. COVERING UNEXPECTED ABSENCES:

TruGreen Landcare has appropriate amounts of Management and Tree Service Workers to cover unexpected absences.

REQUEST FOR PROPOSALS -- PROPOSER'S CERTIFICATION

On behalf of Proposer TruGreen Landcare, the undersigned certifies, declares and agrees as follows:

1. Absence of Any Conflict of Interest. The Proposer is aware of the provisions of Section 2.180.010 of the Los Angeles County Code and certifies that neither Proposer nor its officers, principals, partners or major shareholders are employees of either the County or another public agency for which the Board of Supervisors is the governing body or a former employee who participated in any way in the development of the Contract or its service specifications within 12 months of the submission of this Proposal.

2. Independent Price Determination. The Proposer certifies that the prices quoted in its Proposal were arrived at independently, without consultation, communication, or agreement with any other Proposer for the purpose of restricting competition.

3. Compliance with County Lobbyist Ordinance. The Proposer is familiar with the requirements of Chapter 2.160 of the Los Angeles County Code. All persons acting on Proposer's behalf have complied with its provisions and will continue to do so pending and subsequent to the award of the Contract by the Board of Supervisors.

4. Antidiscrimination.

XX (a) In accordance with Section 4.32.010.A of the Los Angeles County Code, all persons employed by the Proposer, its affiliates, subsidiaries, or holding companies are and will be treated equally by the firm without regard to or because of race, religion, ancestry, national origin or sex and in compliance with all anti-discrimination laws of the United States and the State of California. The following policies and procedures shall be in force and effect over the Contract term: (1) a written policy statement prohibiting discrimination in all phases of employment; (2) periodic self-analysis or utilization analysis of Proposer's work force; (3) a system for determining if Proposer's employment practices are discriminatory against protected groups; and (4) where problem areas are identified in employment practices, a system for taking reasonable corrective action to include establishment of goals or timetables;

OR:

(b) Proposer is exempt from the provisions of Section 4.32.010 because the Contract is for the performance of professional, scientific, expert or technical services of a temporary and occasional character involving only a single individual or an individual or a firm employing less than 10 persons in connection with the performance of such Contract.

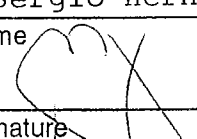
5. Consideration of GAIN/GROW Participants for Employment. As a threshold requirement for consideration for Contract award, Proposer shall demonstrate a proven record of hiring GAIN/GROW participants or shall attest to a willingness to consider GAIN/GROW participants for any future employment opening. Additionally, Proposer shall attest to a willingness to provide employed GAIN/GROW participants access to the Proposer's employee mentoring program, if available, to assist these individuals in obtaining permanent employment and promotional opportunities.

Proposer has a proven record of hiring GAIN/GROW participants (subject to verification; attach proof);

OR:

Proposer is willing to consider GAIN/GROW participants for any future employment opening and to provide employed GAIN/GROW participants access to the Proposer's employee mentoring program, if available.

XX On behalf of Proposer, I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct:

Sergio Hernandez
Name

Signature

Branch Manager
Title
7/14/08
Date

County of Los Angeles – Community Business Enterprise Program (CBE)

Request for Local SBE Preference Program Consideration and
CBE Firm/Organization Information Form

INSTRUCTIONS: All proposers/bidders responding to this solicitation must complete and return this form for proper consideration of the proposal/bid.

I. LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE PROGRAM:

FIRM NAME: TruGreen Landcare, A General Partnership

☒ I AM NOT ☐ A Local SBE certified by the County of Los Angeles Office of Affirmative Action Compliance as of the date of this proposal/bid submission.

☐ I AM

☐ As an eligible Local SBE, I request this proposal/bid be considered for the Local SBE Preference.

My County (WebVen) Vendor Number: _____

II. FIRM/ORGANIZATION INFORMATION: The information requested below is for statistical purposes only. On final analysis and consideration of award, contractor/vendor will be selected without regard to race/ethnicity, color, religion, sex, national origin, age, sexual orientation or disability.

Business Structure: <input type="checkbox"/> Sole Proprietorship <input checked="" type="checkbox"/> Partnership <input type="checkbox"/> Corporation <input type="checkbox"/> Non-Profit <input type="checkbox"/> Franchise <input type="checkbox"/> Other (Please Specify) _____						
Total Number of Employees (including owners): _____						
Race/Ethnic Composition of Firm. Please distribute the above total number of individuals into the following categories:						
Race/Ethnic Composition	Owners/Partners/ Associate Partners		Managers		Staff	
	Male	Female	Male	Female	Male	Female
Black/African American						
Hispanic/Latino			16	1	321	3
Asian or Pacific Islander						
American Indian						
Filipino						
White			2			

III. PERCENTAGE OF OWNERSHIP IN FIRM: Please indicate by percentage (%) how ownership of the firm is distributed.
No Natural Person Owns 5% Or More

	Black/African American	Hispanic/Latino	Asian or Pacific Islander	American Indian	Filipino	White
Men	%	%	%	%	%	%
Women	%	%	%	%	%	%

IV. CERTIFICATION AS MINORITY, WOMEN, DISADVANTAGED, AND DISABLED VETERAN BUSINESS ENTERPRISES: If your firm is currently certified as a minority, women, disadvantaged or disabled veteran owned business enterprise by a public agency, complete the following and attach a copy of your proof of certification. (Use back of form, if necessary.)

N/A

Agency Name	Minority	Women	Dis- advantaged	Disabled Veteran	Expiration Date

V. DECLARATION: I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE ABOVE INFORMATION IS TRUE AND ACCURATE.

Print Authorized Name Sergio Hernandez	Authorized Signature 	Title Branch Manager	Date 7/14/08
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COUNTY OF LOS ANGELES

FORM P-7

LIVING WAGE PROGRAM AND CONTRACTOR NON-RESPONSIBILITY DEBARMENT

ACKNOWLEDGEMENT AND STATEMENT OF COMPLIANCE

The undersigned individual is the owner or authorized agent (Agent) of the business entity or organization ("Firm") identified below and makes the following statements on behalf of his or her Firm. The Agent is required to check each of the applicable boxes below.

LIVING WAGE ORDINANCE:

- ☒ The Agent has read the County's Living Wage Ordinance (Los Angeles County Code Section 2.201.010 through 2.201.100), and understands that the Firm is subject to its terms.

CONTRACTOR NON-RESPONSIBILITY AND CONTRACTOR DEBARMENT ORDINANCE:

- ☒ The Agent has read the County's Determinations of Contractor Non-Responsibility and Contractor Debarment Ordinance (Los Angeles County Code Section 2.202.010 through 2.202.060), and understands that the Firm is subject to its terms.

LABOR LAW/PAYROLL VIOLATIONS:

A "Labor Law/Payroll Violation" includes violations of any federal, state or local statute, regulation, or ordinance pertaining to wages, hours or working conditions such as minimum wage, prevailing wage, living wage, the Fair Labor Standards Act, employment of minors, or unlawful employment discrimination.

History of Alleged Labor Law/Payroll Violations (Check One):

- ☒ The Firm HAS NOT been named in a complaint, claim, investigation or proceeding relating to an alleged Labor Law/Payroll Violation which involves an incident occurring within three (3) years of the date of the proposal; OR
- ☐ The Firm HAS been named in a complaint, claim, investigation or proceeding relating to an alleged Labor Law/Payroll Violation which involves an incident occurring within three (3) years of the date of this proposal. (I have attached to this form the required Labor/Payroll/Debarment History form with the pertinent information for each allegation.)

History of Determinations of Labor Law /Payroll Violations (Check One):

- ☒ There HAS BEEN NO determination by a public entity within three (3) years of the date of the proposal that the Firm committed a Labor Law/Payroll Violation; OR
- ☐ There HAS BEEN a determination by a public entity within three (3) years of the date of the proposal that the Firm committed a Labor Law/Payroll Violation. I have attached to this form the required Labor/Payroll/Debarment History form with the pertinent information for each violation (including each reporting entity name, case number, name and address of claimant, date of incident, date claim opened, and nature and disposition of each violation or finding.) (The County may deduct points from the proposer's final evaluation score ranging from 1% to 20% of the total evaluation points available with the largest deductions occurring for undisclosed violations.)

HISTORY OF DEBARMENT (Check one):

- ☒ The Firm HAS NOT been debarred by any public entity during the past ten (10) years; OR
- ☐ The Firm HAS been debarred by a public entity within the past ten (10) years. Provide the pertinent information (including each reporting entity name, case number, name and address of claimant, date of incident, date claim opened, and nature and disposition of each violation or finding) on the attached Labor/Payroll/Debarment History form.

I declare under penalty of perjury under the laws of the State of California that the above is true, complete and correct.

Owner's/Agent's Authorized Signature	Print Name and Title
	Sergio Hernandez, Branch Manager
Print Name of Firm	Date
TruGreen Landcare	7/14/08

**COUNTY OF LOS ANGELES
LIVING WAGE PROGRAM****ACKNOWLEDGEMENT AND STATEMENT OF COMPLIANCE
LABOR/PAYROLL/DEBARMENT HISTORY**

Firm must complete and submit a separate form (make photocopies of form) for each instance of (check the applicable box below):

- ☐ An alleged claim, investigation or proceeding relating to an alleged Labor Law/Payroll Violation for an incident occurring within the past three (3) years of the date of the proposal.
- ☐ A determination by a public entity within three (3) years of the date of the proposal that the Firm committed a Labor Labor/Payroll Violation.
- ☐ A debarment by a public entity listed below within the past ten (10) years.

Print Name of Firm: TruGreen Landcare, A General Partnership	Print Name of Owner: N/A
Print Address of Firm: 1323 W. 130th St.	Owner's/Agent's Authorized Signature:
City, State, Zip Code: Gardena, CA 90247	Print Name and Title: Sergio Hernandez, Branch Manager

Public Entity Name:		Date of Incident:
Case Number/Date Claim Opened:	Case Number:	Date Claim Opened:
Name and Address of Claimant:	Name:	
	Street Address:	
	City, State, Zip:	
Description of Work: (e.g., janitor)		
Description of Allegation and/or Violation:		
Disposition of Finding (attach disposition letter): (e.g., Liquidated Damages, Penalties, Debarment, etc.)		

N/A

- ☐ Additional Pages are attached for a total of _____ pages.

COUNTY OF LOS ANGELES
LIVING WAGE ORDINANCE**Contractor Living Wage Declaration**

The contract to be awarded pursuant to this Request for Proposal (RFP) is subject to the County of Los Angeles Living Wage Ordinance (Program). You must declare your intent to comply with the Program.

If you believe that you are exempt from the Program, please complete the Application for Exemption form and submit it, as instructed in the RFP, to the County awarding department.

Please check the option that best describes your intention to comply with the Program.

I do not have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract. I will pay an hourly wage rate of not less than **\$11.84 per hour** per employee.

x I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract but will pay into the plan **less than \$2.20 per hour** per employee. I will pay an hourly wage of not less than **\$11.84 per hour** per employee.

I do have a bona fide health care benefit plan for those employees who will be providing services to the County under the contract and will pay into the plan **at least \$2.20 per hour** per employee. I will pay an hourly wage of not less than **\$9.64 per hour** per employee.

Health Plan(s): _____

Company Insurance Group Number: _____

Health Benefit(s) Payment Schedule:

Monthly

Quarterly

Bi-Annual

Annually

Other: _____
(Specify)

PLEASE PRINT COMPANY NAME: TruGreen Landcare

I declare under penalty of perjury under the laws of the State of California that the above is true and correct:

SIGNATURE: 

DATE: 7/14/08

PLEASE PRINT NAME:
Sergio Hernandez

TITLE OR POSITION
Branch Manager

**COUNTY OF LOS ANGELES CONTRACTOR EMPLOYEE JURY SERVICE PROGRAM
CERTIFICATION FORM AND APPLICATION FOR EXCEPTION**

The County's solicitation for this Request for Proposals is subject to the County of Los Angeles Contractor Employee Jury Service Program (Program), Los Angeles County Code, Chapter 2.203. All proposers, whether a contractor or subcontractor, must complete this form to either certify compliance or request an exception from the Program requirements. Upon review of the submitted form, the County department will determine, in its sole discretion, whether the Bidder is excepted from the Program.

Company Name: TruGreen Landcare, A General Partnership			
Company Address: 1323 W. 130th St.			
City: Gardena	State: CA	Zip Code: 90247	
Telephone Number: (310) 354-1520			
Solicitation For (Type of Services): Tree Services			

If you believe the Jury Service Program does not apply to your business, check the appropriate box in Part I (attach documentation to support your claim); or, complete Part II to certify compliance with the Program. Whether you complete Part I or Part II, please sign and date this form below.

Part I: Jury Service Program is Not Applicable to My Business

- ☐ My business does not meet the definition of "contractor," as defined in the Program, as it has not received an aggregate sum of \$50,000 or more in any 12-month period under one or more County contracts or subcontracts (this exception is not available if the contract itself will exceed \$50,000). I understand that the exception will be lost and I must comply with the Program if my revenues from the County exceed an aggregate sum of \$50,000 in any 12-month period.
- ☐ My business is a small business as defined in the Program. It 1) has ten or fewer employees; and, 2) has annual gross revenues in the preceding twelve months which, if added to the annual amount of this contract, are \$500,000 or less; and, 3) is not an affiliate or subsidiary of a business dominant in its field of operation, as defined below. I understand that the exception will be lost and I must comply with the Program if the number of employees in my business and my gross annual revenues exceed the above limits.

"Dominant in its field of operation" means having more than ten employees, including full-time and part-time employees, and annual gross revenues in the preceding twelve months, which, if added to the annual amount of the contract awarded, exceed \$500,000.

"Affiliate or subsidiary of a business dominant in its field of operation" means a business which is at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in that field of operation.


- ☐ My business is subject to a Collective Bargaining Agreement (attach agreement) that expressly provides that it supersedes all provisions of the Program.

OR

Part II: Certification of Compliance

- ☒ My business has and adheres to a written policy that provides, on an annual basis, no less than five days of regular pay for actual jury service for full-time employees of the business who are also California residents, or my company will have and adhere to such a policy prior to award of the contract.

I declare under penalty of perjury under the laws of the State of California that the information stated above is true and correct.

Print Name: Sergio Hernandez	Title: Branch Manager
Signature: 	Date: 7/14/08

13. Proposer's Approach to Labor-Payroll Record Keeping and Regulatory Compliance

Proposer's Approach to Labor – Payroll Record Keeping and Regulatory Compliance

1. Tracking of Employees Hours

a. Reporting Locations

Employees report every morning to our main yard or different satellite locations depending on the job site/crew they are currently assigned to. The start time is assigned depending on contractual obligations for their assigned job site/crew, and their shift commences at the time they are assigned to be at our main yard or satellite locations.

b. Daily Reporting

Employees report to their Supervisor every morning and are accounted for when daily tasks are distributed and discussed. At the end of their shift they fill out and sign a daily timesheet which includes start time, lunch time, stop time, and total time worked for that day. Their Supervisor reviews and approves the time sheet and is turned in to the office for payroll inputting.

c. Documenting Records

TruGreen LandCare has created daily timesheets which document the employee's daily working hours including start time, lunch time, stop time, and total time worked for the day along with the locations our employees report to on that given day. The timesheets are signed and approved by the employee and their Supervisor on a daily basis to ensure accuracy and accountability for our employees. Timesheets are turned in daily to the office for payroll inputting, see attached copy.

d. Records Used to Create Payroll

As mentioned above TruGreen LandCare has created daily time sheets which has all information needed to create and document employee's weekly payroll.

e. Mandated Breaks / Meal Periods

It is TruGreen LandCare's policy to provide employees with work breaks and meal breaks during the day, employees are relieved of all work duties during these break. Meal breaks are mandated if the employees work more than six hours per day. This written policy is included in the Employees Handbook given to them at the time of hire or available to them in our office as well as posted throughout our locations. The daily timesheets include a written record of the meal periods and each crew Supervisor and Area Manager is responsible for ensuring that the policy is taken into effect.

2. Payroll Preparation

a. Payroll Payment to Employees

Exempt employees are paid on a weekly basis in a form of a payroll check processed by our Corporate Office. Payroll checks include wages earned for that week as well as any tax deductions, benefits deductions which employees opt to enroll in, and any other miscellaneous garnishments (if applicable). Payroll checks include current weekly totals as well as year to date totals for wages/deductions. Along with their payroll checks the employees receive a Summary Report which gives them daily hours being paid for the entire week they are being paid for, the summary report specifies hours being paid as regular time or overtime per day to provide employees with a better understanding of their hours worked for that week.

b. See attached

c. Manual Payroll System

TruGreen LandCare uses a payroll computerized system.

d. Automated Payroll System

TruGreen LandCare's automated payroll system allows us to write off the employee's wages and input the Living Wage rate or any other Prevailing Wage rate that would apply to a given contract ensuring compliance with specific terms of our contracts. Employees automatically get paid their normal wage rate for the other contracts that do not required specific wage rates. By overriding the employees wage it allows the payroll system to calculate the specified hours at that given rate. Theses changes in wages are reflected in the Certified Payroll that would be provided to Customers upon their request or per contract agreement.

e. Travel Time

Travel time is spread out and incurred for the jobs worked at on that specific day. Employees working at Los Angeles County contracts will be full time permanent employees assigned to those contracts on a full time basis therefore receiving the Living Wage rate for the entire worked day. In an event that an employee would be assigned to a different job site that does not required the Living Wage rate the employee will be paid the Living Wage rate for the travel time until the employees arrives and commences at a new job site.

f. Overtime Calculation

TruGreen LandCare's automated payroll system automatically calculates the overtime by day and by week. If the wage rate is overridden due to Living Wage or Prevailing Wage rates the system will calculate the overtime depending on those wages for the hours inputted under those rates.